



# Appeal Decision

Site visit made on 7 June 2024

by **A Berry MTCP (Hons) MRTPI**

an Inspector appointed by the Secretary of State

**Decision date: 10 July 2024**

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**Appeal Ref: APP/N2535/W/24/3338491**

**Ambleside, Gallamore Lane, Middle Rasen, Market Rasen, Lincolnshire LN8 3UB**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant planning permission.
  - The appeal is made by Mrs Gail Barber against the decision of West Lindsey District Council.
  - The application Ref is 147649.
  - The development proposed is the erection of a new single storey dwelling with annex.
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## Decision

1. The appeal is dismissed.

## Preliminary Matters

2. Since the appeal was submitted, a revised National Planning Policy Framework (the Framework) has been published. This has not raised any new matters which are determinative to the outcome of this appeal. However, I have referenced the revised paragraph numbers where necessary.

## Main Issues

3. The main issues are: (a) whether the appeal site is in a suitable location for the proposed development; (b) the effect of the proposal on climate change; and (c) the effect of the proposal on flood risk.

## Reasons

### *Suitable Location?*

4. Policy S1 of the Central Lincolnshire Local Plan adopted 2023 (LP) sets out the spatial strategy and settlement hierarchy for delivering sustainable growth for Central Lincolnshire. The appeal site is on the northern side of Gallamore Lane/A46. It comprises an open field used for grazing by animals and the exercising of horses with some agricultural/equestrian outbuildings mainly located towards the northern part of the site.
5. The appellant's dwelling is to the west of the appeal site and four dwellings with associated agricultural/equestrian outbuildings are clustered to the east. The group of dwellings would not comprise a "hamlet" as LP Policy S1(7) defines a hamlet as consisting of a cluster of 15 dwellings or more.
6. The group of dwellings are surrounded by open fields which serve as a Green Wedge to prevent the merging of Middle Rasen (a Medium Village) to the west of the appeal site and Market Rasen (a Market Town) to the east. Development

proposals within Market Towns and Medium Villages are required to be within the "developed footprint" which is defined as "the continuous built form of the settlement" and excludes, "individual buildings or groups of dispersed buildings which are clearly detached from the continuous built-up area of the settlement".

7. The group of dwellings, including the appeal site, are clearly detached from the continuous built-up area of either settlement and therefore they do not form part of their developed footprint, nor is the appeal site immediately adjacent to the developed footprint. Accordingly, the appeal site is within the countryside.
8. LP Policy S5 details the types of development that will be supported in the countryside, and restricts new homes to those that are essential to the effective operation of existing rural operations. The proposal seeks permission for a dwelling to serve the needs of the appellant and their family and consequently, does not meet this exception.
9. Middle Rasen and Market Rasen contain a range of services and facilities that would meet the day-to-day needs of future occupiers. However, the routes between the appeal site and these settlements are unappealing for walking and cycling because it comprises a busy A-road with a 60mph speed limit that has no pavement and is unlit. I have not been directed to any bus stops within proximity of the appeal site, nor could I see any on my site visit. Therefore, public transport could not be relied upon by future occupiers. As such, future occupiers would be reliant on the private motor vehicle.
10. I acknowledge that the Council has granted planning permission for new dwellings within proximity of the appeal site. However, these involved the conversion of existing agricultural buildings under Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 and are therefore not directly comparable to the appeal proposal. While one of the Class Q sites was subject to a full planning application for a single dwelling, the Council gave weight to the Class Q fallback.
11. In reference to the first main issue, the appeal site is not in a suitable location for the proposed development. It would conflict with Policies S1 and S5 of the LP, the content of which is detailed above. It would also conflict with the Framework.

#### *Climate Change*

12. The appellant asserts that the proposal would be designed to exceed the minimum Building Regulations standards. However, I have not been provided with any substantive evidence regarding how this would be achieved. The appellant also asserts that they intend to plant numerous trees on-site to assist with offsetting the carbon footprint of constructing the dwelling and its ongoing occupation. However, I have not been provided with a landscaping scheme that demonstrates this proposition.
13. I accept the appellant's willingness to submit an ES to support the planning application and the Council's reason for declining it. However, no ES was submitted with the appeal to overcome the Council's reason for refusal. Accordingly, insufficient information has been provided to confirm whether the proposal would meet the development plan's climate change requirements.

14. In reference to the second main issue, I cannot be satisfied from the information before me, that the proposal would not have an adverse effect on climate change. It would therefore conflict with Policies S6 and S7 of the LP which, amongst other things, require new residential development to include an ES that confirms it can generate at least the same amount of renewable electricity on-site as the electricity they demand over the course of a year.

#### *Flood Risk*

15. Parts of the appeal site are located within Flood Zones 2 and 3. Footnote 59 of the Framework states that a site-specific Flood Risk Assessment (FRA) should be provided for all development in Flood Zones 2 and 3. No FRA was submitted with the planning application. I accept the appellant's willingness to submit an FRA to support the planning application and the Council's reason for declining it. Notwithstanding this, an FRA was not submitted to support the appeal.
16. I accept that the proposed dwelling would be sited within Flood Zone 1. However, the access and part of the dwelling's driveway would be within Flood Zones 2 and 3. Therefore, I cannot be sure from the information before me, whether a safe access and escape route can be provided for the lifetime of the proposal.
17. The appellant asserts that the appeal site boundary could be amended to exclude Flood Zones 2 and 3. However, I do not have an amended drawing before me. Even if an amended drawing had been submitted, it is likely that the position of the access would have altered, and therefore highway safety or character and appearance could have been affected.
18. In reference to the third main issue, insufficient information has been submitted to enable me to determine the effect of flood risk on the proposal. It would therefore conflict with Policy S21 of the LP which, amongst other things, states that all development proposals will be considered against the Framework, including the application of the sequential, and if necessary, the exception test. It would also conflict with chapter 14 of the Framework.

#### **Other Matters**

19. It has been brought to my attention that two members of the family have a disability, and the appellant and their partner describe themselves as elderly. The appellant asserts that their existing dwelling is not suitable for their needs as they require a dwelling that is all on one level.
20. The appellant asserts that their existing dwelling is unsuitable for renovation or extension without multiple compromises or expense. However, limited evidence has been provided to substantiate these claims. The appellant also asserts that there are very limited properties on the market within a reasonable travel distance of the site which would be suitable for the appellant's needs, and those that would meet their needs would still require extensive adaptation. However, limited evidence has been supplied to support these claims, or that the cost of adaptation would be prohibitive. Consequently, I am not persuaded that, in the face of conflict with the Council's spatial strategy, the required accommodation could not be provided by other means.
21. I appreciate the appellant's frustration that the LP permits new residential accommodation in the open countryside for rural workers if an applicant can successfully demonstrate an essential need to care for animals, but it does not

extend its support for dwellings in the open countryside to care for humans. However, I must determine the proposal against the development plan and any other material considerations.

22. The Public Sector Equality Duty (PSED) contained in Section 149 of the Equality Act 2010 (the Act) sets out the need to eliminate unlawful discrimination, harassment, and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not. The Act sets out the relevant protected characteristics which include disability and age. Since there is the potential for my decision to affect persons with a protected characteristic, I have had due regard to the three equality principles set out in Section 149 of the Act.
23. The negative impact of dismissing this appeal would arise from the appellant and their family potentially continuing to live in accommodation that is unsuitable for their needs. However, it does not follow from the PSED that the appeal should succeed. I have taken into account the personal circumstances of the appellant and their family. However, I am not convinced that their needs cannot be achieved by a less intrusive action that would comply with the policies of the LP. My actions in this respect, and my decision therefore on the appeal, are a proportionate response to the requirements of the Act and those of the plan led system.
24. The absence of comments from the public or neighbours does not indicate no objection to the proposal. While statutory consultees did not raise an objection to the proposal, this does not outweigh my findings in respect of the development plan.
25. The appellant asserts that the proposal would be a Custom or Self-Build dwelling (CSBD). However, the application form states that it would be an open market dwelling. Even if it was a CSBD, I have not been provided with a mechanism to provide certainty that the dwelling would be a self-build project. Furthermore, it is unclear whether the appellant is on the Council's register. Even if the proposed dwelling was occupied as a CSBD, the contribution to the overall demand for such housing would be modest.

### **Conclusion**

26. For the reasons given above, having regard to the development plan as a whole and all other material considerations, I conclude that the appeal should be dismissed.

*A Berry*

INSPECTOR