



## Appeal Decision

Site visit made on 21 August 2017

by **David Cross BA (Hons), PGDip, MRTPI**

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 13 September 2017

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**Appeal Ref: APP/N2535/W/17/3173175**

**The Hawthorns, High Street, Marton, Gainsborough DN21 5AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr & Mrs Cliff Lock against the decision of West Lindsey District Council.
  - The application Ref 135495, dated 21 November 2016, was refused by notice dated 30 January 2017.
  - The development proposed is bungalow and garage using existing store.
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### Decision

1. The appeal is dismissed.

### Procedural Matters

2. The description of development in the heading above has been taken from the planning application form. However, in Part E of the appeal form it is stated that the description of development has not changed but, nevertheless, a different wording has been entered. Neither of the main parties has provided written confirmation that a revised description of development has been agreed. Accordingly, I have used the one given on the original application.
3. This appeal must be determined on the basis of the development plan as it exists at the time of my decision. Subsequent to the date of the refusal of the application, the Council has adopted the Central Lincolnshire Local Plan 2017 (LP). An opportunity to comment on the adoption of the LP was available to the appellants on receipt of the Council's statement. I have therefore considered the appeal against the relevant adopted development plan policies and make no further reference to the previous development plan.

### Main Issues

4. The main issues in this appeal are:
  - Whether the proposal would comply with local and national planning policy which seeks to steer new development away from areas at the highest risk of flooding;
  - The effect on the character and appearance of the area; and
  - Whether the site would be a suitable location for housing development with regard to development plan policy.

## Reasons

### *Flood Risk*

5. The appellants state that the site is partially within Flood Zone 1 and Flood Zone 2. However, on the basis of the evidence provided to me, it is clear that the great majority of the site and a substantial area of the proposed bungalow are within Flood Zone 2 and should be assessed as such. Flood Zone 2 is defined in the Planning Practice Guidance 2014 (as amended) (PPG) as a medium flood risk area.
6. Paragraph 100 of the National Planning Policy Framework (the Framework) advises that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at highest risk. Paragraph 101 goes on to advise that a sequential, risk-based approach must be taken that steers development towards areas of lower risk and that this should be applied in all areas known to be at risk from any form of flooding. The application of a sequential test is also a requirement of Policy LP14 of the LP.
7. The appellants have provided a 'Sequential Test' which was based on criteria within the PPG at the time of the submission of the application. However, prior to the submission of the appeal, the PPG was revised and now includes amended criteria including whether other locations with a lower risk of flooding have been considered for the proposed development. The sequential test submitted by the appellant does not consider other sequentially preferable sites either within Marton or the wider district. There may therefore be other sequentially preferable sites suitable for housing development and the appellants have provided no substantive evidence to show that this has been considered.
8. I acknowledge that the proposed mitigation measures including raising floor levels would provide some protection against flooding inundating the proposed dwelling. However, whilst these measures would provide a reasonable degree of safety for future residents they would not overcome the requirement to undertake a sequential test and would not address issues of access to the property or the provision of basic facilities during a flooding event.
9. I have had regard to an appeal decision<sup>1</sup> provided by the appellants which relates to an infill plot and the assessment against flood risk policies. However I note that this appeal predates the LP, the Framework and the PPG and I can therefore afford this decision very little weight as it would have been assessed against different policies and guidance to the current appeal. The Council has also provided me with a more recent appeal decision<sup>2</sup> which considered both the Framework and the policies of the (then) emerging LP and which supported the Council's approach on matters of Flood Risk.
10. The requirement for a sequential test is clearly set out within the Framework and the PPG. Given the above, I conclude that a robust sequential test has not been undertaken and that the proposal would have an unacceptable level of flood risk. On this basis the proposal would conflict with Policy LP14 of the LP which requires the application of a sequential test and would also be contrary to paragraph 101 of the Framework.

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<sup>1</sup> Appeal ref: APP/N2535/A/10/2130119

<sup>2</sup> Appeal ref: APP/N2535/W/16/3152072

### *Character and Appearance*

11. The appeal site is to the rear of the bungalows of The Hawthorns and Fieldway, which in turn are part of an area of linear development extending along the High Street leading from the village.
12. The site contains a group of buildings which were in a commercial use. Notwithstanding the previous use of the buildings, they are of a limited scale and have the character and appearance of domestic outbuildings rather than a commercial unit. It is proposed to retain one of the buildings as a garage and construct a detached bungalow with rooms in the roofspace.
13. In comparison to the extant buildings on the site, the dormer bungalow would be significantly larger in terms of height and massing. The dormer bungalow is also likely to have a more dominant relationship with the existing bungalows adjacent to the highway due to the height of the dormer roof and because of a gentle slope up to the appeal site. The site is located on the southern edge of the village, and although it would be well screened by field boundaries when entering the village from the south, the site would be visible on leaving the village and would be prominent in views from a public footpath leading past the site. Within this context, the proposal would appear as an overdominant and unsympathetic form of backland development projecting into the open area to the rear of the existing linear form of development.
14. I acknowledge that there is development to the north of the site which projects further from the frontage of the High Street. However, this development is more closely associated with the main body of the village and does not provide a contextual justification for this proposal located at the end of linear development at an entrance to the village.
15. The Council state that the proposal would set a damaging unwelcome precedent on this area of the village. Whilst each application and appeal must be treated on its individual merits, I appreciate the Council's concern that approval of this proposal could be used in support of similar schemes. I consider that this is not a generalised fear of precedent, but a realistic and specific concern as I saw that there were other backland sites to the rear of this area of linear development immediately to the north of the appeal site. Allowing this appeal would make it more difficult to resist further planning applications for similar developments, and I consider that their cumulative effect would exacerbate the harm that I have identified above.
16. I conclude that the location of the dwelling to the rear of the existing frontage development would be out of keeping with the characteristic linear form of this part of the village. The proposal would therefore harm the character and appearance of the area and would be contrary to Policy LP17 of the LP which, amongst other things, seeks to protect and enhance the setting of settlements. The proposal would also conflict with the Framework which seeks to ensure that new development responds to local character and reflects the identity of local surroundings.

### *Development Plan Policy*

17. Under Policy LP2 of the LP, Marton is defined as a Category 5 Medium Village. Policy LP4 states that this category of settlement will be permitted to grow by 10% over the plan period. The Council has confirmed that permitted and

committee supported proposals for the village exceed the 10% limit identified for Marton. The proposal would therefore be contrary to Policy LP4 with regard to growth in villages as the proposal would represent a further increase in housing growth beyond that permitted in the development plan.

18. Policy LP4 also introduces a sequential test where development of brownfield land is given priority. The appellants contend that the site should be considered as brownfield land. However, for the reasons stated above, the proposed development of the site would conflict with other policies of the LP and in particular the test of 'appropriate location' in Policy LP2 due to the effect on the character, appearance and form of the settlement. Therefore, regardless of whether the site is brownfield land or not, the proposal would conflict with the tests of Policy LP4(1-3) as it would not be an 'appropriate location' as defined in Policy LP2.
19. The appellants contend that policies are there for guidance rather than slavish adherence, but I note that Policy LP4 has some flexibility with regard to developments which have community support, which would not apply in this case. I am also mindful that the policies of the LP have recently undergone examination prior to the adoption of the plan. I note that the Examining Inspectors concluded that, subject to recommended modifications, Policies LP2 and LP4 will be capable of providing an effective basis for determining planning applications and should help achieve an appropriate distribution of housing growth.
20. For the reasons stated above, the proposal would conflict with Policies LP2 and LP4 of the LP. I therefore conclude that the development would not be consistent with the objectives of development plan policy relating to spatial strategy and settlement hierarchy, and in particular in relation to growth in villages.

### **Other Matters**

21. The appellants contend that the Council has failed to identify sufficient housing land to meet needs. However, the Council confirms that it is able to demonstrate a housing land supply in excess of 5 years and has provided evidence to confirm this. I also note that this was based on the Inspector's report on the examination of the LP and that the LP was adopted as recently as April of this year. It is therefore reasonable to assume that the matter of housing land supply is appropriately addressed in the LP.

### **Conclusion**

22. For the reasons given above, and having regard to all other matters raised, I conclude that the appeal should be dismissed.

*David Cross*

INSPECTOR