



Appeal Decision

Site visit made on 24 September 2018

by Graeme Robbie BA(Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 16 October 2018

Appeal Ref: APP/N2535/W/18/3203787

17 South Street, Morton, Gainsborough DN21 3AT

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
 - The appeal is made by Mr & Mrs Rea against the decision of West Lindsey District Council.
 - The application Ref 137164, dated 15 December 2017, was refused by notice dated 27 April 2018.
 - The development proposed is an outline application for 3 dwellings.
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Decision

1. The appeal is dismissed.

Procedural Matters

2. The application was submitted as an outline planning application with all matters reserved for future consideration. The application was accompanied by a site plan¹ that demonstrates how three dwellings could be accommodated within the site. It is clear that the site plan is indicative in its nature and content and that the Council considered it as such. I have determined the appeal accordingly.
3. A revised and updated version of the National Planning Policy Framework (the Framework 2018) was published on 24 July 2018. Both main parties were invited to make comments on the implications of the Framework 2018 to their respective cases. I have considered the appeal accordingly.

Main Issue

4. The main issue is whether, having regard to the development plan and national planning policy, the appeal site is an appropriate location for housing, with particular regard to flood risk.

Reasons

5. The village of Morton is designated in the Central Lincolnshire Local Plan (CLLP) as a medium village², which is considered to be capable of growth of up to 15%³ over the plan period. However, the supporting text⁴ to CLLP policy LP4 identifies circumstances in which that growth level may be either boosted or constrained. Morton is one such village, where the growth level is

¹ Drwg No: LIMC 002

² Policy LP2

³ Policy LP4

⁴ Paragraphs 3.4.4 and 3.4.5

- elevated to 15% due to its proximity to Gainsborough, but conversely where flood risk is a known constraint potentially acting against such levels of growth.
6. The Framework states⁵ that inappropriate development in areas at risk of flooding should be avoided by directing development away from those areas at highest risk towards areas with the lowest probability of flooding. To do this, it establishes a Sequential Test (ST) in order to determine whether there are any sites with a lower probability of flooding. The Guidance states that the area across which to apply the ST will be defined by local circumstances relating to the catchment area for the type of development proposed. Beyond that, neither the Framework, nor the Guidance or the CLLP provide much in the way of further detail regarding what constitutes an applicable area to apply to the ST.
 7. The entirety of Morton lies within Flood Zone (FZ) 3 as defined in the Environment Agency flood maps. FZ3 is an area at high risk of flooding which, in the case of Morton, arises from the tidal stretch of the River Trent, a short distance to the west of the site. The appellant's ST confines its search area to sites within or adjoining Morton, an area that the appellant considers to be appropriate. However, other than referring to the CLLP's aspirations for medium villages to accommodate 10% - 15% growth over the plan period, there is little justification provided as to why the extent of the search area is considered to be appropriate. Thus, given Morton's location within FZ3, the appellant's FRA and ST concludes that there are no sequentially preferable sites at a lower risk of flooding than the appeal site.
 8. In this respect, I have been referred by the Council to two recent appeal decisions⁶ for residential development in Morton. In those instances, the Inspectors concluded that because of the scale of the first proposal⁷ and the similarity between the two in terms of site area⁸, the applicable area for the ST should be drawn on a wider basis than just the parish of Morton. Having regard to the conclusions reached in those two cases, the Council aver that the appellant's ST should have considered a wider area than just Morton. In the Council's view the proximity of Gainsborough, which they consider to be an area at a lower probability of flooding, suggests that the scope of the ST should have included that main town.
 9. It seems to me that to define the ST's search area so tightly around Morton is to unnecessarily and inappropriately restrict the scope of the ST. I accept that the proposal, for a net increase of two dwellings, is of limited scale and therefore smaller than either of the two previous appeal proposals to which I have been referred. For that reason, the previous Inspectors' concerns about the relationship between search area and scale of proposal are not directly comparable to the proposal before me.
 10. However, having regard to the Guidance, which suggests that the search area might be identified from Local Plan policies, I am mindful of CLLP policy LP4, in which it is stated that medium villages such as Morton are capable of accommodating growth of 10% - 15% over the plan period. As a medium village, the CLLP therefore anticipates more than the small scale growth

⁵ Paragraph 155

⁶ APP/N2535/W/17/3172910 and APP/N2535/W/16/3152072

⁷ APP/N2535/W/16/3152072 - up to 37 dwellings

⁸ APP/N2535/W/17/3172910

suggested in CLLP policy LP2's settlement hierarchy for smaller villages, hamlets and the countryside beyond. Thus, it seems to me entirely appropriate that the scope of the ST should extend to an area wider than just Morton itself, even if to do so would be likely to highlight areas at lower risk from flooding. By virtue of its definition as a medium village within the settlement hierarchy, it is clear to me that such villages serve more than just a parochial base. Whilst I am mindful of the conclusions reached by the previous Inspectors, I have considered the factors around the appellant's ST on their own merits.

11. Because it has not been satisfactorily demonstrated that the development could be accommodated within an area at lower flood risk, the Sequential Test has not been satisfied. Therefore, to comply with the Framework and CLLP policy LP14 the proposal would need to meet the Exception Test as set out in the Framework.
12. There are two elements to the exception test, both of which should be satisfied for the development to be permitted. With regard to the first element, it must be demonstrated that the proposal would provide wider benefits to the community that outweigh the risk from flooding. The proposal is for three dwellings, representing a net increase in two residential units. It is agreed that Morton is a sustainable location with a range of services, facilities and transport links and that the site is located within the built extent of the settlement. Although it is not disputed that the Council are currently able to demonstrate a housing supply in excess of 5 years⁹, the proposal would nonetheless contribute towards boosting housing supply.
13. However, the contribution that two additional dwellings would make to housing supply would be limited and the Council have no reliance on the delivery of housing from this site to meet housing supply targets. Similarly, the contribution that the proposal would make in economic and social terms arising from the delivery of two additional dwellings, whilst weighing in support of the proposal, would do so only modestly. I do not therefore consider that it has been satisfactorily or sufficiently demonstrated that wider sustainability benefits would outweigh the risk from flooding. The proposal therefore fails to satisfy the first part of the exception test.
14. With regard to the test's second element, I note that the Environment Agency withdrew their objection to the proposal on the basis of an updated and revised FRA. That FRA, together with a topographical survey of the site, demonstrates that the majority of the site lies above the critical flood level of 5.3mAOD. Whilst indicative in its content, the site plan when read in conjunction with the topographical survey demonstrates how development could be accommodated outwith, or minimising the extent of it within, the critical flood level. As such, the FRA sets out a range of mitigation measures which both the Environment Agency and the Council have accepted without objection.
15. As both elements of the exception test are required to be passed, and as I have concluded that the proposal fails with regard to the first element, I consider the proposal to fail the exception test overall. The proposal would therefore fail to comply with the Framework and, in turn, with CLLP policy LP14 which together seek to direct development to areas at lower probability of flooding.

⁹ Central Lincolnshire Five Year Land Supply Report – 01 April 2018 to 31 March 2023 – 6.19 years supply

Conclusion

16. The proposal would provide sustainability benefits in terms of the delivery of an additional two dwellings within the built up area of Morton, which itself is considered to be a settlement with a suitable range of services, facilities and transport links for further development. However, those benefits would only be modest, as commensurate with a development delivering only a net increase of two dwellings. It has not been demonstrated that there are any sequentially preferable sites and the proposal fails the first element of the exception test.
17. Thus I conclude that the appeal site would not be an appropriate location for housing, with particular regard to the risk from flooding, and the appeal should therefore be dismissed.

Graeme Robbie

INSPECTOR