



Appeal Decision

Site visit made on 12 August 2024

by Sarah Housden BA (Hons) BPI MRTPI

an Inspector appointed by the Secretary of State

Decision date: 30 August 2024

Appeal Ref: APP/N2535/W/24/3342758

**Land to the rear of The Grove, 12 Caistor Road, Market Rasen,
Lincolnshire, LN8 3HX**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant outline planning permission.
 - The appeal is made by T, R & N Bradford against the decision of West Lindsey District Council.
 - The application Ref is 147654.
 - The development proposed is Outline planning application to erect 1no. dwelling with access to be considered and not reserved for subsequent applications resub of 144905.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. The application was submitted in outline with all matters reserved for later approval apart from the means of access and I have determined the appeal on that basis. A proposed site plan accompanied the application (Drawing No RDS/11654/03B) showing an indicative layout, the position of the access and the location of trees on the site. Whilst not definitive, I have treated that plan as a guide to how the site might be developed, were the appeal to succeed.
3. A previous appeal for a dwelling on the site was dismissed in July 2023¹. The Inspector concluded that it had not been demonstrated that there were no reasonably available sites appropriate for the proposal in areas with a lower risk of flooding, and as such it did not pass the sequential test. I have had regard to that decision in so far as it is relevant to my assessment of this appeal, but I have determined the appeal based on the evidence before me and the circumstances of the appeal site.

Main Issue

4. The main issue is whether a dwelling on the site would be acceptable in relation to flood risk to people and property.

Reasons

5. The appeal site comprises part of the large garden to the rear of No 12 Caistor Road (No 12), which would be sub-divided to create a separate dwelling plot accessed from a new entrance off Caistor Road. A tributary of the River Rase, the Mill Stream, runs along the southern boundary of the appeal site, with the main river channel being approximately 100 metres to the south.

¹ Appeal Ref APP/N2535/W/22/3313629

6. The site is within Flood Zone 3 (FZ3) on the Environment Agency's Flood Risk Map. It has a 0.5% or 1 in 200 year risk of flooding in any year from the sea and a 1% chance of river flooding, without defences in place. No further information is provided in relation to whether the site falls within FZ3a and 3b, but the appellants' Flood Risk Assessment (FRA) confirms that the site is within the fluvial flood plain without defences in place. As shown on the Historic Flood Map in the FRA, the south-east edge was subject to flooding in 1981, along the line of the Mill Stream.
7. The National Planning Policy Framework (the Framework) at paragraph 165 requires inappropriate development in areas at risk of flooding to be avoided by directing development away from the areas at highest risk. Annex 3 of the Framework confirms that dwelling houses are a 'more vulnerable' use, and the Planning Practice Guidance (PPG) Table 2 makes clear that both the sequential and exception tests are required to be satisfied in FZ3.
8. The sequential test is applied to steer new development to areas with the lowest risk of flooding from any source. Development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. Policy S21 of the Central Lincolnshire Local Plan (2017) (CLP) follows the same approach.
9. The PPG indicates that for planning applications, the area to which the test should be applied will be defined by local circumstances relating to the catchment area for the type of development proposed. The applicant will need to identify whether there are any other 'reasonably available' sites within the area of search, that have not already been identified by the planning authority in site allocations or relevant housing and/or economic land availability assessments, such as sites currently available on the open market.
10. To be considered as 'reasonably available', the PPG states that alternative sites should be in a suitable location for the type of development proposed, with a reasonable prospect that the site is available to be developed at the point in time envisaged. Part of a larger site may be suitable. Lower risk sites do not need to be owned by the applicant to be considered as 'reasonably available'.
11. The area of search in the appellants' sequential test and exception report (the STE report) has been widened compared with the area considered as part of the previous appeal. It encompasses the whole District, but is restricted to properties listed on Rightmove.co.uk and also sites included in the brownfield register.
12. The STE report lists 32 sites that have been investigated and an update on these is provided in the appellants' statement. The appellants' position is that none of the sites can be considered as a reasonable alternative to the application site in terms of their needs in relation to location and costings. The Design Statement indicates that the proposed dwelling would enable the appellants to downsize and sell No 12, however no further details of the appellants' specific requirements have been given. In this context, the explanations given in the STE and the appellants' update do not add any further clarity as to why these sites would not be a reasonable alternative to the appeal site.
13. The appellants' update identifies seven multi dwelling sites, with the reason given for them being unsuitable that it would be unfeasible to undertake a

multi-dwelling development and sell the 'surplus' properties. However, no further investigation has been outlined, for example whether the relevant landowners/site promoters have been approached to establish whether the sale or development of one plot would be an option. Neither is there anything to suggest that sites with planning permission on the Council's land availability records have been investigated.

14. Overall, there is insufficient evidence to demonstrate that there are no other sites at lower risk of flooding from all sources for the appeal dwelling. I am, however, mindful that there appears to be no supplementary guidance produced by the Council to guide applicants in relation to the evidence needed to inform a sequential test, for example an appropriate search area and what would constitute a 'reasonably available' site under the terms of the PPG. There is nothing to suggest that the Council keeps a register of reasonably available sites ranked in flood risk preference, as part of its housing land availability assessment and as advocated in the PPG.
15. In this context, and notwithstanding my concerns about the adequacy of the sequential test undertaken, I have considered whether the exception test would be likely to be met, having regard to the appellants STE report and FRA.
16. The FRA states that taking into account the effect of flood defences, the site is in a mixture of Very Low Risk (less than 0.1% chance of flooding each year) and Low Risk (between 0.1% and 1% chance each year) from fluvial and groundwater sources.
17. The FRA proposes various flood resilience measures to address this risk, including raising the floor level of the dwelling to 170 mm above the average ground level if there would be no ground floor sleeping, and to 0.95 metres above ground level if there would be ground floor sleeping. This incorporates a 33% increase for the climate change flood level which is applied to residential development in the Ancholme Management Catchment.
18. The FRA indicates that the site is at low risk from surface water flooding and that the raised floor level would be sufficient to deal with possible surface water flooding from any intense rainfall events. Sewer flooding is limited to minor isolated cases and not of strategic significance. Construction techniques would incorporate flood resilient design and construction.
19. However, the FRA does not consider what impact the combination of the footprint of the dwelling on the site and the raised floor level could have on water flows in the event of a flood, and whether there would be any impact on other properties. It merely states that flood risk would not be increased elsewhere, but that has not been demonstrated in the evidence.
20. Roof water is proposed to be harvested to a water butt and drained to soakaways, with water from driveway and parking areas to be infiltrated to the ground. There are no calculations of existing greenfield surface water run-off or information about ground conditions to confirm whether soakaways would be suitable.
21. The appellants state that the proposal would have a number of benefits to the community which would outweigh any residual flood risk. These include increasing the provision of new market housing in a sustainable location to meet an identified need. The appellants also point to the contribution that the

proposal would make to the local economy by creating spin-off jobs and the benefits that are normally attributable to new housing.

22. I acknowledge that the appellants may have specific reasons for seeking a dwelling on the appeal site, but the benefits arising would essentially be private. The contribution to the supply of housing and associated economic benefits would be very modest and would not represent the wider sustainability benefits to the community in the terms set out in the exception test.
23. Drawing matters together, there is insufficient evidence to demonstrate that the sequential test has been undertaken in line with the Framework and the PPG, and that there are no reasonably available sites in areas with a lower risk of flooding. Notwithstanding that, the two parts of the exception test have also not been met. For these reasons, there would be conflict with CLP Policy S21 and with the provisions of the Framework and the PPG which seek to ensure that development avoids areas at risk of current or future flooding, and does not increase the risk of flooding elsewhere.
24. I have taken into account that the Environment Agency and the Lead Local Flood Authority have not objected, subject to the imposition of conditions, but I have come to my decision based on the circumstances of the case and the evidence before me.

Other Matters

25. The site is within the Market Rasen Conservation Area (CA). In coming to my decision, I have had regard to the statutory test set out at Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
26. The dwelling is proposed to be one and a half storeys and would be seen within the context of the development to the east of Caistor Road. Sufficient separation distance between No 12 and the new dwelling would be retained so that it would not harm the setting of that property and its significance as a non-designated heritage asset would be preserved. The dwelling would also be a sufficient distance from the listed Almshouses on the opposite side of Caistor Road so that their setting would also be preserved.
27. Overall, the proposal would preserve the character and appearance of the CA and there would be no harm to the significance of No 12 as a non designated heritage asset. The special architectural and historic interest of the Almshouses and their setting would be preserved.
28. The site includes one tree protected by a Tree Preservation Order, with the remaining trees protected by their location within the CA. The removal of all but one of the five trees is acceptable to the Council, but the retention of Tree 11 would need to be incorporated into the final layout at the reserved matters stage. Had the appeal been allowed, this is a matter that could have been secured by means of a planning condition.
29. I am satisfied that at the reserved matters stage, a layout and design could be secured which would safeguard the living conditions of adjoining occupiers.
30. Other matters in relation to highway safety, ecology and tree protection are also noted to be acceptable.

31. However, none of these matters are of sufficient weight to alter my conclusion in relation to the main issue in this case.

Conclusion

32. The proposal would conflict with the development plan, read as a whole and with the provisions of the Framework and PPG in relation to flood risk. There are no material considerations of sufficient weight to indicate a decision other than one in accordance with the development plan. For the reasons outlined above and having had regard to all other matters raised, the appeal is dismissed.

Sarah Housden

INSPECTOR