
Appeal Decision

Site visit made on 26 August 2025

by R Gee BA (Hons) Dip TP PGCert UD MRTPI

an Inspector appointed by the Secretary of State

Decision date: 29 September 2025

Appeal Ref: APP/N2535/W/25/3362422

Former car park to former Wheelhouse restaurant, Lincoln Road, Torksey Lock, Lincoln LN1 2EH

- 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 JJLA Limited against the decision of West Lindsey District Council.
 - The application Ref is WL/2024/00048/ 147481.
 - The development proposed is erection of six holiday lets and ancillary works.
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Decision

1. The appeal is dismissed.

Preliminary Matters

2. Since the determination of this application, the Government published a revised National Planning Policy Framework (the Framework). The parts of the Framework most relevant to the appeal have not substantively changed from the previous version.
3. On 17 September 2025 the Planning Practice Guide (PPG) in respect of the Flood Risk and coastal change was updated. The appellant and Council were invited to make comments on this, and I have taken these comments into account in reaching my decision.

Main Issues

4. The main issues are:
 - i) whether the appeal site is a suitable location;
 - ii) whether the proposal would be acceptable in terms of flood risk;
 - iii) whether suitable measures would be included to adapt to and mitigate the effects of climate change;
 - iv) the impact of the proposals on protected species; and
 - v) whether the requirements of Biodiversity Net Gain (BNG) are met.

Reasons

Location

5. Policy S1 of the Central Lincolnshire Local Plan 2023 (LP) sets out a spatial and settlement hierarchy. Torksey Lock is not a named settlement. Having regard to the

definition within the current LP, I have no reason to disagree with the Council that Torksey Lock forms a Hamlet. Policy S1 states that within the developed footprint of such hamlets, development will be limited to single dwelling infill developments or development allocated through a neighbourhood plan.

6. The proposal is for holiday accommodation and would result in a building that has the facilities required for day-to-day private existence. Whilst the appellant does not seek permanent residential occupation, the purpose of holiday accommodation is for residential use which can be limited by planning condition. I have therefore assessed the proposal as such. Accordingly, as a proposal for 6no units the proposal would not comply with the requirements of Policy S1.
7. The appellant advances that the appeal site is in a sustainable location. I observed other properties in the locality, including a café, and on the opposite side of Foss Dyke, the Elms retirement village. Whilst Torksey Lock has limited facilities I have no reason to doubt that it is a thriving community with an established visitor economy and that the proposal would provide accessible holiday accommodation that would make a positive contribution to the district's visitor economy.
8. Whilst accepting that the proposal is for holiday accommodation the lack of local services and facilities in the vicinity of the appeal site would, therefore, necessitate the need for future occupants to travel to access services in the nearest settlements. The appellant asserts that the location is supported by public transport with a bus route from Lincoln to Gainsborough. I have limited information regarding the frequency of such services. However, I note that these settlements are located some 8-12 miles away. Even when accepting that the site is in a rural location the proposed development would not provide the opportunity to maximise the use of sustainable transport facilities.
9. I recognise that the LP sets out the circumstances where rural tourism proposals will be supported. However, having regard to the criteria of Policy S43 of the LP the information before me does not lead me to conclude that the proposal would satisfy the exemptions.
10. For the reasons stated, I therefore conclude that the proposal would not be in an appropriate location having regard to local planning policies. Accordingly, conflict arises with Policy S1 of the LP which sets out the settlement hierarchy for the district.

Flood risk

11. The information before me indicates that following recent flood risk map updates from the Environment Agency, an area, located broadly central within the application site is located within Flood Zone 2. However, the majority of the appeal site remains within Flood Zone 3. Annex 3 of the Framework sets out that the proposed development would be classed as 'more vulnerable'.
12. The Framework states that inappropriate development in areas of flooding should be avoided by directing development away from areas at high risk.
13. The update to the PPG¹ sets out that the Sequential Test (ST) should be applied to 'Major' and 'Non-major' development proposed in areas at risk of flooding, as set

¹ Paragraph: 027 Reference ID: 7-027-20220825 Revision date: 17 09 2025

out in paragraphs 173 to 174 of the Framework. Paragraphs 175, 176 and 180 set out exemptions from the ST. It states that in applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the ST need not be applied.

14. The appellant asserts that the proposal is exempt from the ST. However, the updated paragraph 27 of the PPG refers to development being safe over its lifetime if it can be shown that the risk from surface water flooding can be mitigated. It is only in those circumstances that a ST is not required, and, therefore, in this instance, as the flood risk does not arise solely from surface water, this exemption does not apply.
15. Accordingly, the decision maker must apply the ST, with the onus on the applicant to demonstrate that there are no reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding.
16. The PPG states that the ST should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need. It goes on to recognise that where there are large areas in Flood Zones 2 and 3 (e.g. coastal towns and settlements on major rivers) and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives.
17. The appellant submits that the proposal relates to water-side holiday accommodation and that virtually the whole of the locality is in Flood Zone 3, and therefore there is no opportunity for this, or any similar holiday-based development, elsewhere in this area that is not in Flood Zone 3.
18. The ST is not designed to ensure that it can never be passed, and a degree of flexibility and pragmatism is required in its application particularly where it is not possible to locate development in low-risk areas, the ST should go on to compare reasonably available sites. This is particularly the case in West Lindsay where large proportions of the district is covered by Flood Zones 2 and 3. Nevertheless, in this circumstance there is no compelling evidence before me as to why the holiday accommodation is required to be located within a flood zone, and the highest one at that. Whilst I appreciate the appellant desires a location close to water, it has not been demonstrated why holiday accommodation could not be located elsewhere in the district, as supported by the rural tourism policies of the LP, in areas of lower flood risk.
19. Furthermore, the appellant's supporting documentation states an internet search concluded there were no other available sites to accommodate the proposal. However, this does not represent a comprehensive analysis of alternative sites. Accordingly, the evidence fails to sufficiently convince me that the development could not be, nor an exercise to show it has been, directed to an area at lesser or the lowest risk of flooding.
20. It is understood that the appeal site lies within a mineral safeguarding area for sand and gravel extraction, covered by Policy M11 of the Core Strategy. It is understood that this allocation covers a substantial area. Whilst I have not been provided with a

copy of this policy, the evidence before me indicates that this policy is not determinative to the appeal scheme before me owing to the scale of the development proposal.

21. Whilst I appreciate large areas of the district are subject to flood risk, and consequently there are many developments within flood zones, this does not justify putting people and property at risk where it has not been robustly demonstrated that there are no suitable alternative sites in areas of a lower probability of flooding. Furthermore, it has not been proven that the proposal is necessary to sustain an existing community. On this basis, I am not satisfied that the ST has been passed.
22. The ST must be passed before the Exception Test (ET) can be applied as the purpose of the ET is to allow necessary development to take place in situations where sequentially preferable sites are not available.
23. The appellant asserts that the development would incorporate flood resilient measures, which includes raised flood levels and states that the proposal would not cause any rise in the flood level in the immediate area. It is noted that the Environment Agency and Lead Local Flood Authority do not explicitly object to such measures. Nevertheless, flood resistance measures should not be used to justify development in inappropriate locations.
24. As my Decision does not turn on whether the ET has been passed, it is not necessary for me to consider the detailed flood mitigation proposals, or whether the scheme would increase the risk of flooding within the area. Even if the ET is met, this does not override the failure to pass the ST.
25. My attention has been drawn to an allowed appeal at Yatton² and the Court judgment in *Mead Realisations Ltd*³ that sets out that a failure to comply with the Sequential Test is not automatically fatal to a planning application and that other material considerations may outweigh such a failure. From the limited information before me the scale of the proposal in Yatton is not comparable to the appeal scheme before me. Whilst having regard to the approach advocated by the judge in the *Mead* case, in this circumstance the ST has not been passed. Future occupiers would be at long term risk of flooding and to allow development on this basis would be contrary to national policy objectives.
26. For these reasons, the proposal would conflict with Policy S21 of the LP and the Framework which seek to promote, amongst other matters, sustainable growth within appropriate locations and to steer new development to areas with the lowest risk of flooding.

Climate Change

27. Policies S6 and S7 of the LP sets out a clear expectation that development will maximise its contribution to climate change adaptation and mitigation. Amongst other things it sets out design expectations that should be considered when formulating development proposals, including the form and fabric of buildings, heat supply and renewable energy generated.

² Appeal ref: APP/D0121/W/24/3343144

³ *Mead Realisations Ltd v The Secretary of State for Levelling Up, Housing and Communities & Anor* [2024] EWHC 279 (Admin) (12 February 2024),

28. Policy S7 of the LP requires that all new residential development proposals must include an Energy Statement which confirms that in addition to the requirements of Policy S6 that all such residential development proposals, can generate at least the same amount of renewable electricity on- site and to help achieve this point, target achieving a site average space heating demand of around 15-20kWh/m2/yr and a site average total energy demand of 35 kWh/m2/yr, achieved through a 'fabric first' approach to construction. No single dwelling unit to have a total energy demand in excess of 60 kWh/m2/yr, irrespective of amount of on-site renewable energy production.
29. The appellant submits that a range of carbon reduction measures could be secured by planning condition. However, in the absence of authoritative technical evidence, I cannot be certain about the carbon emissions associated with the proposal and, therefore, whether the measures proposed are sufficient to ensure the proposal adapts to and mitigates climate change in accordance with the requirements of the LP.
30. I therefore conclude on this main issue that the proposal would fail to comply with Policies S6 and S7 of the LP insofar as they seek to ensure development adapts to and mitigates climate change, and to incorporate measures to improve environmental quality.

Protected species.

31. Policies S60 and S61 of the LP seek to protect, manage, enhance and extend the ecological network of habitats and species.
32. The site does not form part of an ecologically designated area. Nonetheless, the appeal site is located proximate to Foss Dyke, and I observed mature vegetation proximate to the appeal site's boundaries.
33. There is limited evidence before me to ascertain the methodology used to produce the statement, the level of ecological expertise and the qualifications of the author of the Preliminary Ecological Appraisal. I, therefore, do not have sufficient information before me from which I can be certain about the ecological baseline of the site. Consequently, it is not possible to identify the degree of harm that could be caused to protected species, or to determine the necessity and effectiveness of any mitigation measures that could be required.
34. In accordance with Circular 6/2005⁴ I consider that this matter should be addressed before a decision is made and that it is not appropriate to attach a condition to a decision in this case.
35. Accordingly, there is insufficient evidence to demonstrate that protected species would be safeguarded. On this basis the proposal fails to accord with Policies S60 and S61 of the LP. Amongst other things, these seek to ensure that development proposals avoid negative impacts on biodiversity and protected species. Furthermore, there is clear conflict with the Framework which seeks to conserve and enhance biological diversity.

⁴ Biodiversity and Geological Conservation

Biodiversity Net Gain

36. The application pre-dates the introduction of a statutory requirement for BNG on small sites. However, Policies S60 and S61 of the LP require amongst other things that development proposals must deliver at least a 10% measurable biodiversity net gain attributable to the development, stating that the net gain for biodiversity should be calculated using Natural England's Biodiversity Metric net gain in biodiversity by quantifiable methods such as the use of a biodiversity metric.
37. In the absence of such evidence, I cannot be confident that a measurable gain in BNG is achievable. Conflict therefore arises with Policies S60 and S61 of the LP, and the Framework, in so far as collectively, amongst other things, they require development proposals to contribute to and enhance the national and local environment by providing net gains for biodiversity.

Other Matters

38. The support from the Council's Growth and Projects Officer is noted and I recognise that the proposal would make efficient use of a vacant brownfield site and that the future users could take advantage of a multitude of visitor attractions in the wider locality. The benefits to health and well-being arising from the use of holiday accommodation are not disputed.
39. Subject to conditions I am satisfied that the access and parking arrangements would be acceptable and that the proposal would not be harmful to the living conditions of the occupiers of neighbouring properties.
40. The Council did not allege any harm to the setting of the Grade II Listed Lock and Footbridge which is located proximate to the appeal site. The significance of this Lock is derived from its roman origins. The setting of the heritage asset has clearly changed over time with developments proximate to it. The appeal proposal would be visible from the lock and footbridge. Nevertheless, I am satisfied that the proposal would preserve the heritage asset, its setting and its significance.
41. The proposal would support jobs in construction, and in supply chains, during the construction period. The proposed development would provide for a holiday accommodation, which would increase the availability, and choice, of such in the area. Furthermore, its users would contribute to the local tourism industry and the local economy.
42. Whilst the appellant has raised concerns regarding the Council's processing of the application in terms of the failure to request additional information, I can only deal with the planning merits of the case.

Planning Balance

43. The proposal would conflict with the spatial strategy of the development plan. I have identified conflict in respect of the application of policies relating to flood risk and I cannot be satisfied that the proposal would be acceptable in respect of BNG and protected species. It would be contrary to the development plan in these respects, and I give significant weight to this conflict.
44. Having considered the benefits of the proposal, as outlined above, given the limited size of the proposal, these benefits would be modest and not sufficient to outweigh the harm identified. Moreover, I have no compelling evidence before me that the

proposal would provide wider sustainability benefits to the community that outweigh the flood risk.

45. Notwithstanding the above, having regard to footnote 7 of the Framework, Paragraph 11 (d) is disengaged by flood risk considerations because in this instance flood risk provides a strong reason for refusing the development.

Conclusion

46. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise.
47. My above findings bring the proposal into conflict with the development plan when read as a whole. There are no material considerations, including the Framework, which indicate the decision should be made other than in accordance with the development plan. I, therefore, conclude that the appeal should be dismissed.

R Gee

INSPECTOR