



Appeal Decision

Site visit made on 16 April 2024

by G Dring BA (Hons) MA MRTPI MAUDE

an Inspector appointed by the Secretary of State

Decision date: 2nd May 2024

Appeal Ref: APP/Y2003/W/23/3333763

Humber Lodge, Pasture Road North, Barton Upon Humber, North Lincolnshire DN18 5RB

- 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 Jan Gilbert against the decision of North Lincolnshire Council.
 - The application Ref is PA/2023/1305.
 - The development proposed is change of use from a permitted development as a holiday home with permission to reside for 12 months of the year to full residential status.
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Decision

1. The appeal is dismissed.

Preliminary Matter

2. The Government published a revised National Planning Policy Framework (the Framework) in December 2023. Those parts of the Framework most relevant to this appeal have not been significantly amended. Therefore, I am satisfied that there is no requirement to seek further submissions on the revised Framework and that no party's interests have been prejudiced by my taking this approach.

Main Issues

3. The main issues are:
 - whether the proposal would be at an unacceptable risk of flooding; and
 - whether the site would be a suitable location for this proposal, having regard to the spatial strategy and other material considerations.

Reasons

Flood risk

4. There is no dispute between the parties that the appeal site is located within Flood Risk Zone 3. Policy DS16 of the North Lincolnshire Local Plan Adopted Plan May 2003 (LP) states that development will not be permitted within flood plains where it would increase the number of people or buildings at risk. Policy CS19 of the North Lincolnshire Local Development Framework Core Strategy Adopted June 2011 (CS) states that the Council will support development, where possible, on land that has a lower flood risk and relates land use to its vulnerability to flood.

5. The Framework states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk.
6. There is dispute between the parties about whether the level of flood risk information provided is sufficient and the Council considers that a sequential and exception test should have been carried out. Nonetheless, when applying the Flood Risk Vulnerability Classification in Annex 3 of the Framework, the proposed development is classed as highly vulnerable, being a caravan, mobile home or park home intended for permanent residential use, whilst the existing use is classed as more vulnerable, being a site used for holiday or short-let caravans and camping. The vulnerability in flood risk terms would therefore increase, as a result of the proposal. Table 2 Flood Risk Vulnerability and Flood Zone 'incompatibility' set out in the Planning Practice Guidance (PPG) states that highly vulnerable types of development should not be permitted in areas identified as Flood Risk Zone 3.
7. Therefore, regardless of the outcome of a sequential and exception test assessment the PPG is clear that the proposed development should not be permitted on flood risk grounds.
8. I acknowledge that the expert report prepared by Alan Wood & Partners states that the newly installed piles are higher than the original ones and that they provide a good level of flood resilience for the property, although this relates to a neighbour dispute rather than providing specific flood risk evidence. I also note that the appellant has not witnessed any flooding incidents in the past 19 years and that they intend to continue to improve the flood defences.
9. I am mindful of the mitigation measures set out in the appellant's statement, including the replacement pilings that have been installed, the positioning of adjacent ponds in relation to the appeal site, automatic Floodline Warnings from the Environment Agency, monitoring the three day flood forecast and British Ports information about water levels, that documentation and valuable items are stored for easy transit and that an evacuation plan is in place.
10. However, these mitigation measures do not outweigh the guidance set out in the PPG. The proposal would therefore be at an unacceptable risk of flooding and would be contrary to Policy DS16 of the LP and Policy CS19 of the CS, the aims of which are set out above. The proposal would also be contrary to paragraph 165 of the Framework which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future).

Location

11. The Council has provided the development plan inset map for Barton upon Humber which identifies that the appeal site is in fairly close proximity to the defined development limit, but outside of it. The appeal site is therefore in open countryside for the purposes of the development plan.
12. Policies CS2, CS3 and CS8 of the CS focus development to within the existing urban areas and within development limits. Consequently, they also restrict development outside the defined development limits to that which is essential to the functioning of the countryside, including for agriculture, forestry or other uses that require a countryside location, or a proposal that will contribute to

the sustainable development of the tourist industry. Policy RD2 of the LP states that development in the open countryside will be strictly controlled, and permission will only be granted for a number of different types of development. The provision of a dwelling would not comprise any of these exceptions.

13. As a result, the proposal would not be in a suitable location, having regard to the spatial strategy. The proposal would therefore be contrary to Policy RD2 of the LP and Policies CS2, CS3 and CS8 of the CS, as set out above.
14. There is no dispute between the parties that a Lawful Development Certificate (LDC) was issued by the Council in respect of a caravan on the appeal site. The occupation of the caravan for holiday use for 12 months of the year does provide a fallback position which forms a material consideration.
15. Based on the evidence before me, the caravan could be occupied continuously throughout a 12 month period, for holiday purposes, without any other restrictions identified. The scale of the development is limited, and no external alterations are proposed. To my mind the character in terms of how it would be used as a permanent dwelling would be similar to that of an unrestricted holiday use in this case and would not necessarily be more intensive.
16. The appeal site is defined fairly tightly around the caravan and existing workshop building adjacent to the road and is not extensive in area. It is unlikely therefore that there would be a significant change to the appearance or use of the external spaces of the appeal site as a result of the proposed change of use. With regards to the Council's concerns about setting a precedent and the potential for future applications for a dwelling, I consider that any future applications would need to be assessed on their individual merits.
17. I also note that the appeal site is not significantly removed from the defined development limit and that there are a range of services and facilities within Barton upon Humber that would be in relatively easy reach of the appeal site. It is approximately a 20 minute walk to the train station. On route to the train station, I noticed a shop and public house, various sports clubs and the road that one of the primary schools is located on. I witnessed the presence of other services and facilities in the wider settlement including a secondary school, doctors' surgery, opticians, post office and a range of shops.
18. The last section of the route, closest to the appeal site, does not benefit from a separate footpath. However, whilst only a snapshot in time, I noted that it was lightly trafficked during my site visit and I witnessed a number of pedestrians utilising the route which continues east past the appeal site into what appeared to be a well-used recreational route for pedestrians. In my view, the proposal would not conflict with the requirements of Policy CS25 of the CS with regard to reducing the need to travel.
19. I therefore find that whilst there would be some conflict with the policies of the spatial strategy due to the location of the appeal site being outside the defined development limit, this conflict would be outweighed by the established fallback position and its accessibility to services and facilities in Barton upon Humber. In this case, in relation to the second main issue only, the site would be a suitable location for the proposal.

Other Matters

20. I am referred to a lodge adjacent to the appeal site at Pasture Wood Fisheries that was granted permission by the Council for residential use. The Council suggest that this was part of a wider tourism development scheme in 2003 that was policy compliant at the time it was determined. I do not have any further information in order to make a full comparison with the appeal proposal before me but it appears as though it was considered under a different development plan context and was part of a wider scheme that differs from the proposal before me.
21. I note the appellant asserts that other developments within the local area are at risk of flooding. I do not have any detailed information before me to understand when they were granted permission or any of the evidence those decisions were made upon, nor do I have the site constraints before me. In any case, I must deal with the appeal before me on its individual merits.

Conclusion

22. Although the conflict with the spatial strategy is outweighed by the fallback position and the accessibility of the site to the services and facilities within Barton upon Humber, the development would still conflict with flood risk policies. As such, the proposal conflicts with the development plan as a whole, and there are no material considerations that indicate that I should take a decision other than in accordance with it. The appeal is therefore dismissed.

G Dring

INSPECTOR