



## Appeal Decision

Site visit made on 20 January 2025

by **M Cryan BA(Hons) DipTP MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 03 June 2025

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**Appeal Ref: APP/Y2003/W/24/3347914**

**Land rear of The White House, Garthorpe, Scunthorpe DN17 4RP**

- 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 Mr Jonathan Wroot of Wroot Homes Ltd against the decision of North Lincolnshire Council.
  - The application reference is PA/2022/645.
  - The development proposed is 4 dwellings, with means of access and layout to be considered.
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### Decision

1. The appeal is dismissed.

### Preliminary and Procedural Matters

2. The proposal was described on the planning application form as “residential development for 5 dwellings with garages and associated works, access and layout to be considered”. While the application was being determined the scheme was reduced to four dwellings, and an amended description was used on the appeal form to reflect the revised scheme put forward by the appellant. I have used that wording in the banner heading above. The decision notice issued by the Council retained the original description, and much (though not all) of the Council’s evidence referred to five dwellings rather than four. While this may have introduced an element of confusion when reading the submitted documents, the appellant’s intention is clearly set out in the description I have used above, which also reflects the scope of the scheme as I have considered it; I have not therefore taken up the appellant’s alternative suggestion that the description could be amended to refer to “up to five dwellings”.
3. The application was submitted in outline, with means of access and layout to be considered at this stage. I have therefore treated any details which might be inferred from the submitted drawings or other material relating to the reserved matters – appearance, landscaping, and scale – as being for illustrative purposes only.
4. The Council’s officer report and appeal statement (though not the decision notice) referred to draft policies in the then-emerging new North Lincolnshire Local Plan, which had been submitted to the Planning Inspectorate for examination on 11 November 2022. On 4 October 2024 that plan was withdrawn from examination; in determining this appeal I have therefore disregarded the draft policies to which the Council had previously referred. The development plan therefore remains the 2011 North Lincolnshire Core Strategy (“the NLCS”), and those policies of the 2003

North Lincolnshire Local Plan (“the NLLP”) which were saved by direction of the Secretary of State on 17 September 2007<sup>1</sup>.

5. In December 2024 the Government published a revised National Planning Policy Framework (“the Framework”), replacing the December 2023 version extant at the time the planning application was determined. The provisions most relevant for determining this appeal were not altered significantly in the updated Framework, and I have not therefore sought further submissions on this matter; I am satisfied that neither main party’s interests have been prejudiced by my taking this approach. Where I have referred in my decision to specific paragraphs of the Framework, the numbering used is that of the December 2024 version.
6. In February 2025, after I had carried out my site visit, my attention was drawn to another appeal decision in North Lincolnshire<sup>2</sup> on the back of which the Council acknowledged that it could not demonstrate a five-year supply of deliverable housing sites. In coming to my conclusion in this appeal I have taken into account comments made by both main parties in the light of this other decision, and I address the matter below.

## Main Issues

7. The main issues are
  - Whether the site represents an appropriate and sustainable location for the proposed development, having regard to local and national planning policy; and
  - Whether the proposal would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding.

## Reasons

### *Location of development*

8. The appeal site is an area of land on the east side of the High Street in the village of Garthorpe, at the rear of a detached dwelling known as The White House. The proposed development is the erection of four new dwellings, which would be arranged either side of a new private drive to be taken off the High Street south-west of The White House. The submitted layout drawing shows that two parking places and a double garage would be provided for each dwelling.
9. With the attached village of Fockerby, Garthorpe is defined as a “rural settlement”, the third tier of the development plan’s settlement hierarchy. The spatial strategy for the area<sup>3</sup> aims to support rural settlements as thriving sustainable communities, and indicates that there will be a strong focus on retaining and enhancing existing local services to meet local need.
10. Policies CS2, CS3 and CS8 of the NLCS state that development should be focused on small-scale schemes within the defined development limits of rural settlements to meet identified local needs, and that outside the defined limits of settlements only development which is essential to the functioning of the countryside will be

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<sup>1</sup> As well as policies of the 2016 Housing and Employment Land Allocations DPD, though these were not referred to by either main party as being relevant to this appeal.

<sup>2</sup> PINS Ref: APP/Y2003/W/24/3352581

<sup>3</sup> Set out in Policy CS1 of the NLCS

allowed. Policy CS8 states that development on greenfield sites will only be allowed where it can be demonstrated that it would bring additional community benefits, and would contribute to building sustainable communities. Saved Policy RD2 of the NLLP has largely been overtaken by the policies of the NLCS which provide more detail<sup>4</sup>, though among other provisions not already set out here it also allows for development in the countryside where it would provide affordable housing to meet a proven local need.

11. Paragraph 82 of the Framework states that planning decisions should be responsive to local circumstances and support housing developments that reflect local needs. Paragraph 83 notes that, where there are groups of smaller settlements, development in one village may support services in other villages nearby.
12. The appeal site straddles the defined development boundary of Garthorpe and Fockerby. Two relatively small parts of the site – the frontage to the High Street south-west of The White House where the new entrance would be formed, and an area of land south-west of The White House and behind its rear garden – are within the boundary; the vast majority of the site is outside of the development boundary and all four of the proposed dwellings would, in the development plan’s terms, be within the open countryside.
13. The appeal scheme would not include affordable housing, nor would it be for a purpose such as agriculture or forestry for which a countryside location is necessary. It would not therefore fall within the range of uses where development outside the defined settlement limits is supported.
14. The Council’s 2019 revision of the North Lincolnshire Settlement Survey found that Garthorpe and Fockerby had three of seven “key facilities”. Since that survey was prepared, I understand that one of those facilities – the convenience store – has closed and been converted to a dwelling. The village did have a public house, the Bay Horse Inn, though this closed in around 2013; although the appellant noted that planning permission was granted in 2021 for the conversion of the pub to operate in tandem with a food takeaway and another commercial unit, that development did not appear to have been carried out by the time of my site visit.
15. The nearest other settlements of Adlingfleet, Luddington and Amcotts (respectively around 1.1, 2.3 and 4.4. miles from the appeal site) are also not well-served by key facilities and, while there are bus services from Garthorpe to the major towns of Goole and Scunthorpe, these are infrequent. Access to day-to-day services by walking, cycling or public transport would be poor, and future occupiers of the development would be likely to be overwhelmingly dependent on the private car for access to shops, services and community facilities.
16. While the appellant considers that the proposed development would help to sustain key facilities in the area, and perhaps even to support the reopening of the Bay Horse Inn in the village, the small size of the appeal scheme means that it would be unlikely to make a notable contribution to these aims. Given the limited range of services available in Garthorpe and the neighbouring villages, the development would not make a significant contribution to maintaining the vitality of these rural communities.

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<sup>4</sup> Where there is conflict between development plan policies, Section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that this must be resolved in favour of the document which has more recently become part of the development plan.

17. I note the appellant's comments about the Council's development plan policies which, they consider, lead to an "unfair distribution of housing approvals [...] concentrated in Crowle to the detriment of the needs of other settlements within the [Axholme North] ward. I address below the Council's failure to have in place a five-year supply of deliverable housing sites; beyond this, within the scope of this appeal it is neither necessary nor appropriate for me to attempt to dissect the overall housing strategy for the area.
18. Taking all of this together, the proposed development would be outside a defined settlement boundary, in a rural settlement which has limited access to services by a range of sustainable transport options. The community benefits of the scheme would be very limited, and it would make a negligible contribution to building sustainable communities. I conclude that the site would not represent an appropriate and sustainable location for the proposed development; the proposal would therefore conflict with Policies CS2, CS3 and CS8 of the NLCS, and Policy RD of the NLLP, the principal relevant provisions of which I have set out in paragraph 10 above. For the same reasons, the development would not be supported by the provisions of paragraphs 82 and 83 of the Framework which seek to promote sustainable development in rural areas.

#### *Flood risk*

19. The appeal site lies within Flood Zones 2 and 3 as shown on the Environment Agency Flood Map for Planning, and so is at high risk of flooding. Paragraph 170 of the Framework 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)". The Planning Practice Guidance clarifies that "areas at risk of flooding" principally means land within Flood Zones 2 and 3 or where a Strategic Flood Risk Assessment shows it will be at risk of flooding in the future.
20. Paragraphs 173 to 175 of the Framework require the application of a sequential test, the aim being to steer new development to areas with the lowest risk of flooding from any source. Paragraphs 177 and 178 then require an exception test to be applied; to pass this it should be demonstrated that:  
  
*"the development would provide wider sustainability benefits to the community that outweigh the flood risk; and*  
  
*"the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."*
21. Policy CS19 of the NLCS also requires a risk based sequential approach to determine the suitability of land for development; it states that development in areas of high flood risk will only be permitted where, among other things, it can be demonstrated that it would provide wider sustainability benefits to the community and the area that outweigh flood risk. Policy DS16 of the NLLP says that development will not be permitted within floodplains where it would increase the number of people or buildings at risk. While these policies pre-date the introduction of the Framework, in the case of the NLLP by several years, both are consistent with it.
22. The appellant submitted a sequential test as part of the planning application, which concluded that there were no suitable alternative sites available with a lower flood

risk. When determining the planning application, the Council accepted that the sequential test had been passed; none of the evidence before me leads me to a different conclusion on this particular point.

23. A flood risk assessment (“FRA”) addressing the exception test was also submitted as part of the planning application. It stated that during a 1 in 100 year flood event (with allowances for climate change) the water level at the site could be expected to reach 4.1m above Ordnance datum (“AOD”), but that the floor levels of the proposed dwellings would be raised at least 4.4m AOD. It was also noted that the appeal site’s distance from the nearest likely source of flooding (the River Trent, some 2km or so away) meant that flood waters would take some time to reach it, and there would be more than sufficient time to implement an evacuation plan.
24. The Council was satisfied that the FRA satisfactorily demonstrated that the development would be safe without increasing flood risk elsewhere, and that it would therefore comply with the second part of the exception test. Again, none of the evidence before me leads me to disagree. However, Paragraph 179 of the Framework is clear that both elements of the exception test should be satisfied for development to be permitted.
25. The appellant put forward suggested sustainability benefits of the scheme, both in the FRA and during the appeal<sup>5</sup>. Some, such as the suggestion that additional housing in Garthorpe could support facilities in neighbouring rural settlements within North Axholme, were essentially the same as those I have addressed in paragraphs 15 and 16 above; for the same reasons as in my consideration of the previous main issue, I consider that they would be very limited benefits.
26. Some of the benefits suggested in the FRA, such as employment and use of local trades and suppliers during construction, may provide some economic gain, but this would be small in scale and time-limited. Suggestions made in respect of burglaries and crime, and carbon-efficient dwellings, seem to me to simply set out the minimum expectations of development rather than being benefits. The possible retention of hedgerows around the site would not really be a benefit at all, given that they could presumably equally easily be retained without the development going ahead.
27. While I have had regard to all the points put to me in favour of the scheme, taken together they do not amount to wider sustainability benefits to the community which would outweigh the flood risk, and the exception test is not passed. I conclude that the proposal would not comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding. It would therefore conflict with Policy CS19 of the NLCS and Policy DS16 of the NLLP, the principal relevant provisions of which I have set out in paragraph 21 above. It would also conflict with the requirements of the Framework in respect of flood risk.

### **Other Matters**

28. I note the comments made by the appellant relating to ecology and biodiversity, responding to the Council’s officer report. I also note both main parties’ discussion on the form and layout of the village of Garthorpe. It has not been necessary for me to address those matters here, as they did not form part of the reasons for which

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<sup>5</sup> Though some of the benefits suggested in the FRA – such as making the best use of a redundant agricultural building – appear to relate to a different scheme.

planning permission was refused and they are not among the principal important controversial issues in this appeal.

### **Planning Balance and Conclusion**

29. I have found that the proposed development would not comply with national or local planning policy in respect of the location of development and flood risk.
30. Following the February 2025 appeal decision referred to in paragraph 6 above, it is common ground between the main parties that the Council cannot demonstrate a 5 year housing land supply. However, Paragraph 11 and Footnote 7 of the Framework are clear that the “tilted balance” in favour of sustainable development is not engaged if the application of policies in the Framework to protect areas of particular importance provides a clear reason for refusing the development proposed. These areas include areas at risk of flooding; in this case, the risk from flooding provides a clear reason for refusing the proposed development, and the “tilted balance” is not engaged.
31. The Government’s objective is to significantly boost the supply of housing and the proposal would provide four new homes. There would be some economic benefits during construction and occupation. However, given the small scale of the proposal, any economic, social and environmental benefits arising from the scheme would be limited, and would not outweigh the other harm I have found.
32. The proposal would conflict with the development plan taken as a whole. There are no material considerations, including those of the Framework, which indicate that the decision should be made other than in accordance with the development plan.
33. For the reasons given above, the appeal is therefore dismissed.

*M Cryan*

Inspector