

# Morton Neighbourhood Plan



## Evidence Paper 2 – Planning Records

June 2019

## Morton - Summary of planning history from 1<sup>st</sup> December 2012 to 31<sup>st</sup> December 2018

The key points to emerge from this analysis are as follows:

- The extent to which flood risk\* is a significant constraint on new development.
- The predominance of householder applications (41%).
- Although low numerically, County Level applications give rise to local concerns over the uses and traffic generation.

\*The issue of flood risk is considered in detail in Evidence Paper 5.

During this period 66 planning applications were submitted, as detailed in Appendix 1. Of these 61 applications were to West Lindsey District Council (WLDC) and 5 were to Lincolnshire County Council (LCC). A summary of the type applications is set out in the following table.

Type of application	Number
House extensions (WLDC)	27
Residential development - permitted (WLDC)	10
Residential development - refused (WLDC)	6
Reserved matters, discharge of condition etc applications (WLDC)	13
Miscellaneous applications (WLDC)	5
Miscellaneous applications (LCC)	5
<b>TOTAL</b>	<b>66</b>

The 27 applications for **house extensions** were all approved. A total of 29 applications related to new **residential development**. 10 of these applications (on 5 sites), were permitted (9 dwellings in total). 6 applications (on 4 sites), were refused. The other applications were a combination of reserved matters, non-material amendments and discharge of conditions on sites with residential permissions. The 10 miscellaneous applications include 5 submitted to WLDC, for small scale proposals e.g., a telecommunications notification, an extension to a nursing home and an amenity building at a Rifle Club. All were approved. The other 5 were submitted to and permitted by LCC as what are referred to as "County matters"- which are dealt with by County Councils, including applications related to waste. These included alterations to an existing animal disposal unit, a replacement household waste processing unit at Gainsborough Skip Hire and a proposal to construct an animal crematorium.

### Comparison with WLDC housing supply data (Monitoring of Growth in Villages – 11/02/19).

Regular monitoring shows the latest position on the growth occurring in Central Lincolnshire villages in accordance with policies LP2 and LP4 of the Local Plan. The table below sets out the schemes granted planning permission for new residential development which have been regarded by WLDC as completed/committed. It includes the applications in Appendix 1 but in two cases, the original applications (North Street and the Trentside coach depot), pre-date 2012.

Ref. No.	Address	Date	Dwellings completed/committed
134109 138631	10 Walkerith Rd	16.05.16 09.01.18	1
132264	Adj. to 2 Morton Ho.	11.08.16	3
135456 138624	14 Walkerith Rd	12.01.17 11.01.19	1
130646	2 Field Lane	05.06.14	1
123488 135782	North St	02.06.09 02.05.17	4
121428	Trentside coach depot	22.10.09	15 (12 completed)
<b>Total</b>			<b>25 dwellings</b>

**Other residential permissions (2012 - 2018).** In addition to the above three other dwellings were permitted but they are not included as commitments by WLDC. These are for a dwelling to replace a mobile home at Laughton Wood Equestrian Centre (Refs. 128838 and 130728) and for one 3-bed and one 4-bed dwelling at Blackbird Hill Farm on Laughton Lane (Ref. 132958).

**Residential refusals and appeals** - As noted above 6 applications for new residential development (on 4 sites), were refused. A summary of the planning history, including the decision to dismiss the appeals, is set out below. The full decision letters are attached as Appendix 2.

**1. Land off Granary Close** Three planning applications (refs 132760, 133918 and 135482) were submitted on this site between 2015 and 2017. The first two were for outline planning permission for up to 37 dwellings. Ref. 134582 was an outline application for 9 dwellings. Appeals were lodged on the second and third of these applications and both were dismissed.

*Application ref 133918 and Planning Inspectorate ref. APP/N2535/W/16/3152072).* The issues considered included: character and appearance; flood risk and housing land supply. The Inspector concluded that in some respects the proposal would accord with the three dimensions of sustainable development, namely:

A - The village is close to Gainsborough and it has good public transport connections and local facilities (primary school, shop, doctor's surgery, church, village hall and two public houses). The site thus has a good level of accessibility by means other than the car; the occupiers of the proposed development would be likely to support local businesses and community facilities; economic support for the local area would also arise from the construction of the development.

B - The proposal would provide needed housing in the context of an absence of the requisite five-year supply. The affordable housing would address local affordable housing need.

C - The public open space and nature reserve would be of benefit socially and environmentally.

However, the Inspector then went on to comment that:

- There would be harm to the character and appearance of the area and although that harm would be limited it would weigh against the environmental dimension.
- The proposed development would be **at unacceptable risk of flooding**.

It was concluded that **the harm to the character and appearance of the area and the unacceptable flooding risk are of overriding weight** in terms of all three dimensions of sustainable development. Therefore, when considered in total the proposal would not be a sustainable form of development.

*Application ref. 135482 and Planning Inspectorate ref. APP/N2535/W/17/3172910* The issues considered were housing land supply, the site, effect on character/appearance and flood risk. The Inspector noted that the Central Lincs. Local Plan was newly adopted, commenting that:

A - There is no reason to suppose that the relevant policies for the supply of housing should now be considered as not up to date in respect of demonstrating a five-year supply of deliverable housing sites. Therefore, it is not necessary to apply the tilted balance required by Para. 14 of the NPPF whereby permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, assessed against the NPPF as a whole.

B - The proposal would provide moderate social benefits in helping to boost the supply of family-sized housing within West Lindsey in an environmentally sustainable location accessible to local facilities and by bus and cycle to services, secondary schools and employment in Gainsborough.

However, it was again concluded that that the benefits would be clearly outweighed by **the harm found to the open rural setting of the village** and from the **inefficient use of a green field site** on the edge of the village where housing would be placed **in an area at high risk of flooding**.

**2. No. 17 South Street** An application (ref 137164) for outline permission for 3 dwellings was refused in 2018. An appeal (ref. APP/N2535/W/3203787) was lodged and subsequently dismissed. The main issue was whether, having regard to the development plan and national planning policy, the site is an appropriate housing location, with particular regard to flood risk. The inspector commented that:  
A - The proposal would provide sustainability benefits in terms of the delivery of an additional two dwellings within the built-up area of Morton;  
B - Morton is considered to be a settlement with a suitable range of services, facilities and transport links for further development;

However, noting that those benefits would only be modest, commensurate with a development delivering only a net increase of two dwellings, it had not been demonstrated that there are any sequentially preferable sites and the proposal fails the first element of the exception test. It was concluded that **the appeal site would not be an appropriate location for housing, with particular regard to the risk from flooding.**

**3. Land to rear of 7 Mill Lane** An application (ref 137020) to erect a bungalow was refused in 2018. An appeal (ref. APP/N2535/W/3202824) was lodged and subsequently dismissed. The main issues were location with regard to the potential for flooding; the effect on the character and appearance of the area, including trees, impact on setting of a listed building and parking.

The Inspector noted that the impacts were acceptable, other than that related to flooding. He commented that the Sequential Test provided did not satisfy the requirements of the NPPF. The first part of the test states that it must be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk. **The Inspector concluded** that the development would offer only one dwelling which would present **an extremely modest benefit that would not outweigh the potential flood risk.** Therefore, the proposal would not be in accordance with Policy LP14 of the Local Plan, notwithstanding the identification of Morton as potentially suitable for growth in Policies LP2 and LP4 of that Plan.

**4. Other.** A planning application (ref 128325) was submitted in 2012 for the conversion and change of use of an existing dwelling on Dog and Duck Lane to 4 self-contained apartments and a 2-storey rear extension. Permission was refused but there are no details on the WLDC website.

## Appendix 1. Morton planning applications 2012 to 2018

Ref no/address	Proposal	Decision/date	Notes
128217 58 Field Lane	Agricultural Determination for storage building	Deemed approved 07.03.12	
128325 11 Dog & Duck Lane	Conversion and change of use of existing dwelling to 4 self-contained apartments and 2 storey rear extension	Permission refused 18.09.12	
128569 74 Walkerith Road	Two storey rear extension	Permission granted 25.06.12	
128772 26 Nursery Vale	Two storey rear extension	Permission granted 18.09.12	
128838 Laughton Wood Equestrian Centre, Laughton Lane	Outline application to replace existing temporary accommodation with permanent worker's dwelling - access to be considered and not reserved for subsequent applications - resubmission of 127649	Permission granted 20.12.12	
128914 Coach Depot, Trentside	Request for confirmation of compliance with conditions 1 - 11 of planning permission 121428	Condition discharged 25.09.12	
128985 Coach Depot, Trentside	Planning application to remove condition 10, Section 106 Agreement, of planning permission 121428	Permission granted 01.11.12	
129060 Westwinds, Walkerith Road	County Matters Planning Application (ref PL/0125/12) for alterations and extensions to an existing animal disposal unit, improved circulation, working, storage and unloading area and secure parking for trailers.	Permission granted 06.11.12	
129892 11 Dog & Duck Lane	Conversion and change of use of existing dwelling to 4no. self-contained apartments (re-submission of 128325)	Planning permission granted 24.06.13	
130358 14 Walkerith Road	Outline application to erect 1no. detached bungalow and garage- all matters reserved	Permission granted 23.10.13	
130489 Tall Trees, 22b Crooked Billet Street	First floor bedroom extension with en-suite shower room	Permission granted 07.11.13	
130541 2 Salisbury Close	Prior approval to extend dwelling house	Prior approval not required 31.10.13	
130646 2 Field Lane	Erect 1 no. bungalow	Permission granted 05.06.14	

130728 Laughton Wood Equestrian Centre, Laughton Lane	Reserved Matters. Replace temporary accommodation with permanent worker's dwelling on the site of redundant stabling, stores and washroom-following Outline Application 128838	Permission granted 17.01.14	
131464 60 Field Lane	Prior approval to extend dwelling house.	Prior approval not required. 19.08.14	
131687 Laughton Wood Equestrian Centre, Laughton Lane	Confirmation of compliance with conditions 2,3,4,5,6 and 7 of permission 128838 granted 20 December 2012	Condition discharged 17.09.14	
131741 O/S 2 Field Lane, Field Lane	Notification of installation of electronic communications apparatus.	Permitted development 08.08.14	
131773 2 Field Lane	Request for confirmation of compliance with conditions 2, 3, 4 and 5 of planning permission 130646.	Partial condition discharge 16.09.14	
131857 9 Mill Lane	Single storey extension	Permission granted 30.10.14	
132201 39 Walkerith Road	Single storey extension	Permission granted 13.02.15	
132248 Coach Depot, Trentside	Non-material amendment to planning permission 128985 - variations to elevations, footprint size and materials	Permission granted 22.12.14	
132264 Land adjacent 2 Morton House	3 no. executive live/work type dwellings to include garages and workrooms	Permission granted 11.08.16	
132305 Gainsborough Skip Hire	County Matters Planning Application PL/0264/14 to vary condition 2 of planning permission W64-0673-91 to increase the permitted height of the storage mounds.	Permission granted 23.02.15	
132379 5 Mill Lane	Extend dwelling house	Permission granted. 12.03.15	
132419 3 North Street	Proposed extension to existing garage to provide storage, wc and sunroom.	Permission granted 02.04.15	
132760 Land off Granary Close	Outline planning application for residential development of up to 37 no. dwellings, including 10 no. affordable homes, with access to be considered.	Permission refused 17.06.15	Summary of reason for refusal: Within Flood Zone 3 and Sequential Test not met.
132856 Gainsborough Rifle Club, Laughton Lane	Single storey amenity building	Permission granted 06.07.15	

132958 Blackbird Hill Farm, Laughton Lane,	Prior approval of proposed change of use of agricultural building to 2 no. dwelling houses	Granted 12.10.15	
133144 11 Walkerith Road	Erect single storey rear extension	Permission granted 09.09.15	
133396 Coach Depot, Trentside	Application for non-material amendment to planning permission 128985	Granted 07.09.15	
133423 26 Nursery Vale	Three storey extension to rear of dwelling	Permission granted 09.11.15	
133534 Laughton Wood Equestrian Centre, Laughton Lane	Vary condition 5 of outline planning permission 128838 - change in finished floor level	Granted 19.11.15	
133576 North Street	Non-material amendment to planning permission 123488	Granted 03.12.15	
133822 34 Mill Lane	Single and two storey extensions	Permission granted 15.01.16	
133918 Land off Granary Close	Outline planning application for residential development of up to 37 no. dwellings, including 10 no. affordable homes-access to be considered and not reserved for subsequent applications-resubmission of 132760	Permission refused 26.04.16 Appeal dismissed	Summary of refusal: Greenfield site, within Flood Zone 3 and does not meet Sequential and Exceptions test.
134019 8 Hickman Close	Lawful Development Certificate for a single storey side extension	Permitted development 24.02.16	
134109 10 Walkerith Road	Outline to erect 1no. dwelling, including the demolition of the existing buildings, with all matters reserved.	Permission granted 16.05.16	
134450 6 Field Lane	Proposed loft conversion	Permission granted 04.07.16	
134830 Westwinds, Walkerith Road	County Matters Application PL/0090/16 to install a storage tank associated with applicant's business activities	WLDC objections. Permission granted 22.07.16	
134922 7 West Street	Ancillary living accommodation	Permission granted 05.10.16	
134967 8 Bycroft Road	Attic conversion and change of material to front elevation of property.	Permission granted 27.10.16	
135001 Manor House Nursing Home, Dog And Duck Lane	Single storey extension to provide 3 no. additional bedrooms	Permission granted 24.11.16	
135011 32 Field Lane,	Rear extension and replacement garage.	Permission granted 14.11.16	

135110 Gainsborough Skip Hire, Laughton Lane,	County matters application PL/0111/16 to construct a replacement household waste processing unit.	WLDC No observations/objections Permission granted 16.12.16	
135148 1 Poppyfield Court	Vary conditions 2 and 4 of planning permission 127212 - amended materials and drainage details.	Permission granted 19.12.16	
135456 14 Walkerith Road	Outline planning application to erect 1no. detached bungalow and garage with all matters reserved	Planning permission granted 12.01.17	
135482 Land off Granary Close	Outline planning application for the erection of 9 dwellings with access to be considered	Planning permission refused 18.01.17 Appeal dismissed 25.07.17	Summary of reasons for refusal: Greenfield site, in Flood Zone 3 and does not meet Sequential and Exception Tests.
135550 12 Crooked Billet St	Single storey extension	Permission granted 16.01.17	
135742 20 North St	Erect garage to replace existing	Permission granted 10.03.17	
135782 Plot 3, land at North St	Erect 1 no. dwelling	Permission granted 02.05.17	
136276 Lincolnshire Co-op. Ltd, 28, Front Street	External alterations and new car park lighting.	Permission granted 01.11.17	
136296 8 Trentside	Erect garden annexe providing additional family accommodation.	Permission granted 27.10.17	
136824 Plot 3, Poppyfield Court	Confirmation of compliance with conditions 2-7 inclusive of planning permission 135782	Conditions discharged 25.11.17	
136857 34 Field Lane	Side extension	Permission granted 13.12.17	
137020 Land to rear of 7 Mill Lane	Erect dormer bungalow	Permission refused 04.01.18 Appeal dismissed	Reasons for refusal: Does not meet Sequential Test, no evidence that dwelling could be constructed without damaging woodland.
137164 17 South Street	Outline planning application to erect 3 no. dwellings - all matters reserved.	Permission refused 27.04.18 Appeal dismissed	Summary of reason for refusal: Does not meet the Sequential Test or Exception Test.



138034 7b Walkerith Rd	Two storey extension	Permission granted 31.08.18	
137313 20 Morton Close	Single storey extension.	Permission granted 14.03.18	
137399 34 Field Lane	Non-material amendment to planning permission 136857	Permission granted 19.02.18	
137408 5 Southlands G'dens	Single storey extension	Permission granted 06.04.18	
137495 The Haven, Manor Rd	Remove condition 5 of outline permission W64 815 87 retention of hedge	Permission granted 25.05.18	
137565 Burnt Bridge Farm, Morton Carr	County matters application consultation PL/0029/18 - To construct an animal crematorium, including the change of use of site from agricultural to sui-generis.	WLDC observations/objections Permission granted 14.05.18	
138034 7b Walkerith Road	Two storey extension	Permission granted 31.08.18	
138381 2 Field Lane	Convert existing garage into bedrooms and erect garage	Permission granted 09.11.18	
138624 14 Walkerith Road	3 bed bungalow with flood refuge room in the loft area	Permission granted 11.01.19	
138631 10 Walkerith Rd	Reserved matters to erect 1 no. dwelling following outline planning permission 134109 considering access, appearance, landscaping, layout and scale.	Permission granted 09.01.18	



---

## Appeal Decision

Site visit made on 20 September 2016

**by Nick Palmer BA (Hons) BPI MRTPI an Inspector appointed by the Secretary of State for Communities and Local Government Decision date: 05 October 2016**

**Appeal Ref: APP/N2535/W/16/3152072**

**Land off Granary Close, Morton, Gainsborough**

- 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 Youngman against the decision of West Lindsey DC.
- The application Ref 133918, (11 Jan. 2016), was refused by notice 26 April 2016.
- The development proposed is residential development of up to 37 N<sup>o</sup> dwellings, including 10 N<sup>o</sup> affordable homes.

---

**Decision** The appeal is dismissed.

### Procedural matters

1. The application is for outline permission with all matters except access reserved. An indicative master plan has been submitted and I shall consider that plan on the basis that it indicates a possible layout. I shall also consider the submitted dwelling plans as being indicative.
2. The Council advises that a slightly revised description from that given on the application form was agreed between the parties.

### Main Issues

3. The main issues in the appeal are:

- 1 - the effect of the development on the character and appearance of the area;
- 2 - whether the proposed development is acceptable in terms of flood risk; and
- 3 - consideration of housing land supply and relevant planning policies for the location of new housing development.

### Reasons

#### *Character and Appearance*

4. The appeal site is an open field which adjoins the built-up area of Morton on two sides. The field is used as paddocks and adjoins the back gardens of houses on Granary Close and Mill Road. It has two access points from Mill
-

Road which are intended to be used as pedestrian routes and for emergency access purposes. Vehicular access would be from Granary Close through a gap between houses. To the south-west of the site and adjacent to one of the field accesses is a converted former mill which is listed at grade II. The site is outside the settlement boundary as identified in the West Lindsey Local Plan First Review (LP) (2006).

5. The site adjoins open countryside and provides an open aspect from the rear of the adjacent dwellings. As open land in close proximity to the mill the site at least in part forms part of its setting. The Council has not raised any concern about the proposed development harming the setting of the listed building. I concur with this view because the mill is already practically surrounded by housing development and the appeal site has a degree of separation from it. The indicative layout plan indicates that areas of open space would be maintained in the corner of the site nearest to the listed building and in the northern part of the site. For these reasons the setting of the listed building would not be harmed.
6. It is intended to develop the southern part of the site and to leave the northern part open to provide public open space, allotments and a nature reserve. The extent of the proposed development in relation to the existing built framework would be modest. The landscape is not identified as being of particular sensitivity or value and the trees which I saw along parts of the site boundaries would partially screen the proposed development from view across the countryside. Nonetheless the development would be intrusive in the context of the existing open landscape when seen from the adjacent built up area, including from the rear of the adjacent houses. The proposals include the raising of ground levels in order to reduce flood risk and the resultant high levels of the development would increase its visual prominence.
7. For these reasons I find that the proposal would have a harmful effect on the character and appearance of the area but that that effect would be limited. The proposal would not accord with saved policy STRAT 1(vi) of the LP which requires that impact on character and appearance is considered.

#### *Flood Risk*

8. The site and indeed the whole of the village of Morton is within Flood Zone 3 as identified on the Environment Agency's mapping and as such has a 1 in 100 or greater annual probability of flooding from the River Trent which is to the west of the village and potentially from a nearby reservoir. The river benefits from maintained flood defences which would in practice protect the site from a 1 in 200 year flood event. However the effectiveness of the defences cannot be guaranteed and in the event of a breach the site would be inundated to a depth of at least 0.5 metre.
9. The Environment Agency has advised for the purposes of flood risk mitigation that finished floor levels should be set 0.3 metre above that flood level. In accordance with that advice the land levels would be raised and the floor levels of the dwellings would be between 0.8 and 1.7 metres above existing ground levels. The northern part of the site would be excavated to provide for storage of flood waters.
10. The National Planning Policy Framework (the Framework) requires the application of a sequential test to steer new development to areas with the

lowest probability of flooding. The Planning Practice Guidance<sup>1</sup> advises that the area to apply the sequential test across will be defined by local circumstances relating to the catchment area for the type of development proposed.

11. The Council accepts that the housing policies in the LP are out-of-date. The emerging Central Lincolnshire Local Plan has been submitted for examination. In that draft Plan Morton is identified as a 'Medium Village' where no new housing allocations are proposed. Draft policy LP2 would permit developments of up to 9 dwellings although that figure could be increased to 25 as an exception where this is justified by local circumstances. Draft policy LP4 envisages that housing growth in Morton over the 20 year Plan period would be 15%, which would equate to about 72 dwellings. Thus the village is not identified for significant level of growth in the emerging Local Plan and any additional housing development that does take place would be modest in scale. The proposal would exceed the scale of development in the emerging Plan. Although the Plan has limited weight because of its status, I give some weight to policies having regard to the level of flood risk in the village.
12. I have taken into account the identified local need for the proposed affordable housing. However, the scale of the proposed development is such that the sequential test should be applied over a wider area than just the parish of Morton. Although the village lies within an area of high flood risk the nearby urban area of Gainsborough is at lower risk of flooding. The Council has pointed out that there are other potential sites adjacent to the urban area which would be at lower risk of flooding. Whether or not those other sites would be suitable or available for the proposed development I find for the reasons given that the requirements of the sequential test as set out in the Framework and the Planning Practice Guidance have not been met.
13. The proposed flood mitigation measures would safeguard against the dwellings being inundated but the external areas including the means of access would be under water in the event of a breach of the flood defences. Although the mitigation measures demonstrate a reasonable degree of safety for the future occupants this does not overcome the requirement imposed by the sequential test to direct development away from areas at high levels of flood risk.
14. For the reasons given I conclude on this issue that the proposed development would be at an unacceptable level of flood risk. The proposal would not accord with saved policy STRAT 1(xii) of the LP which requires that land subject to flood risk is avoided.

#### *Housing Land Supply and Planning Policies*

15. The Central Lincolnshire Five Year Land Supply Report (May 2016) identifies a 5.33 year supply across West Lindsey, Lincoln City and North Kesteven. However this assessment is based on an Objectively Assessed Need which has not been subject to examination. The calculation of supply also relies heavily on sites proposed to be allocated in the emerging Plan which similarly have not been subject to examination. A Local Development Order which grants permission for 245 homes at Riverside Gateway in Gainsborough has been approved and there are other initiatives to accelerate housing delivery.

---

<sup>1</sup> ID: 7-033-20140306

However for the above reasons a five-year housing land supply has not been adequately demonstrated.

16. The proposal would not accord with saved policy STRAT 12 of the LP which restricts development outside settlement boundaries. However in the absence of the requisite five-year supply I can give only limited weight to that policy. The green field status of the land puts it at the lowest priority in bringing land forward for development as set out in saved policy STRAT 9 of the LP. The priority given by that saved policy to development of previously-developed land is consistent with the Framework. However in as far as that policy restricts new housing development it is a policy for the supply of housing and on this basis it carries limited weight.
17. Paragraph 49 of the Framework states that policies for the supply of housing should not be considered up-to-date where there is not a five-year supply. In such circumstances paragraph 14 makes provision for planning permission to be granted for sustainable development. This is however subject to consideration against other Framework policies<sup>2</sup>. The requirements of paragraphs 100 to 102 of the Framework in terms of the sequential test are key requirements of the Framework and policies relating to flooding are referred to in footnote 9. Given that I have found conflict with the Framework with regard to its policy on land at risk of flooding paragraph 14 indicates that the proposed development should be restricted.

#### *Unilateral Undertaking*

18. A Unilateral Undertaking (UU) has been submitted which would secure the provision of affordable housing and contributions towards education provision. I have taken the UU into account in my decision but this does not alter my findings on the main issues.

#### *Other Matters*

19. The appellants have provided letters of support from local residents but the Parish Council objected as did a number of other local residents. This does not alter my conclusions.

### **Summary and Conclusion**

20. In some respects the proposal would accord with the three dimensions of sustainable development. The village is in close proximity to the urban area of Gainsborough and it has good public transport connections. There are also local facilities in the form of a primary school, shop, doctor's surgery, church, village hall and two public houses. The site thus has a good level of accessibility by means other than the car. The occupiers of the proposed development would be likely to support local businesses and community facilities. Economic support for the local area would also arise from the construction of the development.
21. The proposal would provide needed housing in the context of an absence of the requisite five-year supply. The affordable housing would address local affordable housing need. The public open space and nature reserve would be of benefit socially and also environmentally by encouraging wildlife. These

---

<sup>2</sup> NPPF paragraph 14, second bullet point under 'decision-taking' and footnote 9

aspects of the proposal would accord with the social, economic and environmental dimensions of sustainable development.

22. On the other hand I have found that there would be harm to the character and appearance of the area although that harm would be limited. This weighs against the environmental dimension. I have also found that the proposed development would be at unacceptable risk of flooding. This is of overriding weight in terms of all three dimensions of sustainable development. For these reasons when considered in total the proposal would not be a sustainable form of development.

23. For the reasons given I conclude that the appeal should be dismissed.

*Nick Palmer* INSPECTOR

## Appendix 2. (Continued) Copies of appeal decisions – Granary Close 2017



---

# Appeal Decision

Site visit made on 25 July 2017

**by Jonathan Price BA(Hons) DMS DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Communities and Local Government Decision date: 8<sup>th</sup> August 2017**

---

**Appeal Ref: APP/N2535/W/17/3172910**

**Land off Granary Close, Morton, Gainsborough, Lincolnshire.**

- 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 and Mrs Youngman against the decision of West Lindsey District Council.
  - The application Ref 135482, dated 17 November 2016, was refused by notice dated 18 January 2017.
  - The development proposed is outline application for the erection of 9 dwellings.
- 

## Decision

1. The appeal is dismissed.

## Applications for costs

2. Applications for costs were made by West Lindsey District Council against Mr and Mrs Youngman and by Mr and Mrs Youngman against West Lindsey District Council. These applications are the subject of a separate Decision.

## Procedural Matters

3. The application was outline with all matters reserved apart from access. I have considered the proposal on this basis, taking the layout and house plans submitted as being for indicative purposes only and the plan of existing and proposed site levels as addressing the flood risk issues.

4. Since the Council's decision the Central Lincolnshire Local Plan (CLLP) was adopted on 24 April 2017. This becomes the development plan for this area, replacing the West Lindsey Local Plan First Review 2006 referred to in the refusal reasons, and my decision takes account of this.

### **Main Issues**

5. The main issues are whether this would be an appropriate location for the proposal in respect of:
  - The nature of the site and the effect of the development on the character and appearance of the area.
  - Whether the development would comply with national and local planning policy which seeks to steer new development away from areas at the highest risk of flooding.

### **Reasons**

#### *Nature of the site and the effect on character and appearance*

6. The village of Morton, where the development is proposed, has expanded to merge with the larger town of Gainsborough to its south. The nine dwellings would be on a 0.9 hectare site, part of open horse paddocks adjoining the back gardens of dwellings along Granary Close and Mill Lane. This housing currently provides the north-eastern extent of the main built-up part of this settlement and beyond is mainly open countryside. The nature of the site is greenfield, not previously developed land. Access is proposed from Granary Close.
7. This proposal follows the Council's refusal for a higher density outline scheme of 37 dwellings on a larger part of the same site where a later appeal was dismissed on 5 October 2016<sup>1</sup>. In the previous appeal the Inspector noted that the site was not within a wider landscape identified as being of particular sensitivity or value and the subsequent adoption of the CLLP has not altered this.
8. In the previous appeal the Inspector found the proposed 37 dwellings would have a harmful effect, albeit limited, on the character and appearance of the area mainly by intruding into the existing open landscape as viewed from the surrounding built-up area. I concur with the previous Inspector that the trees along the site boundary would screen the proposed houses from views from the countryside beyond. This proposal would be for significantly fewer dwellings than the earlier scheme, resulting in a lower density, more spacious development. As previously it would involve raising the site levels to address flood risk.
9. CLLP Policy LP2 provides a spatial strategy and settlement hierarchy for Central Lincolnshire, including West Lindsey. This focusses most development in the larger urban areas and settlements and proportionally less in the smaller ones, thus enabling more people to access jobs, services and facilities locally and making the most effective use of previously developed land.
10. Morton is designated to accommodate a limited amount of development as a Medium Village defined in Policy LP2, typically on sites of up to 9 dwellings and only in appropriate locations. The policy defines appropriate locations as those which do not conflict with other CLLP and national

policies and where the core shape and form of the settlement would be retained, with no significant harm to its character and appearance, its rural setting or to the surrounding countryside.

11. Although the proposal would be a relatively modest addition to the existing built framework it would still be a quite expansive extension of low density housing into open countryside which would contrast with the generally more compact grain of the existing development.
12. The current use as horse paddocks is appropriate to the rural fringe of the village and does not undermine the character of this area. Notwithstanding the lower density now sought the scheme would still result in a significant expansion of housing into the open countryside, on raised land visually prominent from the adjacent development, which would harm the character and appearance of the rural setting of the settlement.

---

<sup>1</sup> APP/N2535/W/16/3152072

13. The spread of low density suburban housing into open countryside, beyond the more compact limits of the village, would fail to retain the core shape and form of the settlement and significantly harm its setting. Therefore, this proposal would not be the appropriate location required to support the limited amount of development allowed in Medium Villages by Policy LP2.
14. The low density development of a greenfield site within countryside at the edge of the settlement would be contrary to both the most effective use of previously developed land sought generally through Policy LP2 and to the sequential priority given by CLLP Policy LP4 to the development of brownfield sites within the village footprint. The proposal would not be in an appropriate location when judged against CLLP Policy LP26 which seeks that development contributes positively to local character, makes effective and efficient use of land and relates well to the site and surroundings.
15. The inefficient use for housing of green field land on the edge of the village, of harm to its character and appearance, would conflict with the CLLP policies referred to and consequently the development would be inappropriate in this location.

#### *Flood risk*

16. The National Planning Policy Framework (the Framework) establishes a Sequential Test to steer new development to areas with the lowest probability of flooding. CLLP Policy LP14 seeks that all development proposals be considered against this requirement. Morton and the surrounding area, including the appeal site, fall within Flood Zone (FZ) 3 as defined in the Environment Agency flood maps. FZ 3 is an area with a high risk of flooding (more than a 1:100 annual probability). The primary flood risk to Morton relates to the potential breach or over-topping of the defences to the adjacent tidal stretch of the River Trent.
17. The Framework requires that a site-specific flood risk assessment (FRA) be provided for all new development proposals within FZ 3. This proposal relies on the FRA produced to support the previous scheme for 37 dwellings. Based on this the appellants' case is that, as all of Morton falls within FZ 3, there were no alternative sites in this area at a lower flood risk and therefore the Sequential Test would be met.



18. The appellants' principle argument in respect of flood risk is that the reduced scheme of 9 houses would be the modest amount of housing development permitted under Policy LP2 and part of the 15% increase of some 72 further dwellings allowed in Morton up to 2036 by Policy LP4. Therefore the appellants argue that applying the Sequential Test for this modest amount of housing to an area wider than Morton would serve to frustrate the 15% growth level set in the CLLP.
19. Policy LP4 provides a strategic steer for the appropriate level of growth in Morton over the plan period. This is set at 15% to reflect the presence of key facilities within the village and its proximity to the wider range of services in the nearby main town of Gainsborough. However, the Council points to the supporting text in paragraph 3.4.5 whereby the 15% housing growth allowed remains dependent upon overcoming the flood risk constraints in Morton which falls entirely within FZ 3.
20. The site sought for the nine dwellings is approaching the same size as the previous proposal for 37 units. It is less mainly because there is an area to the south-east corner of the appellants' land holding which does not form part of the application red line. Whilst all planning applications are treated on their individual merits, were the 9 dwellings to be approved it might then be difficult to resist allowing the rounding off of this development with further houses in this south-east corner.
21. Although this proposal is for a substantially lower number of dwellings it nonetheless seeks residential status for an area of land slightly less than that considered in the last appeal. Consequently, I find no reason to depart from the conclusion of the previous Inspector that the scale of the proposed development is such that the Sequential Test should apply to a wider area than the parish of Morton.
22. Because it has not been shown that there would not be the potential for the development to be accommodated within a lower flood risk area within a wider catchment, such as to the south around Gainsborough, the Sequential Test set by the Framework would not be satisfied. Therefore, to comply with Policy LP14 the proposal would need to meet the Exception Test as set out in the Framework.
23. Classed as More Vulnerable development, housing in FZ 3 should pass the Exception Test to be allowed. As set out in paragraph 102 of the Framework there are two parts of the Exception Test which must both be passed for the development to be permitted. In respect of the first part, the contribution made to the supply of family-sized housing in a reasonably sustainable location is insufficient to demonstrate that the development provided wider sustainability benefits to the community that outweighed the flood risk.
24. The second part of the Exception Test is that a FRA must demonstrate that the development will be safe for its lifetime taking into account of the vulnerability of its users, without increasing flood risk elsewhere and, where possible, will reduce flood risk overall.
25. The flood-volume compensation area provided by the northern part of the appellants' land holding, proposed in the FRA, falls outside the application red line for this development. Therefore, whilst this mitigation might be achievable in principle, it is not secured through the application submitted.
26. The proposal includes plans indicating the raising of the existing site levels by ~~0.8~~ 1.7m in the same way as set out in the FRA for the previous scheme.

This would meet the Environment Agency advice that the floor slab levels of the houses should be 300m above the potential flood levels were there to be a breach or over-topping of the River Trent defences.

27. I have no reason to disagree with the previous Inspector that such mitigation would provide a reasonable degree of safety for future occupiers in the event of a flood. In principle I am persuaded that, with the flood-volume compensation area, the permeable ground conditions, the use of sustainable drainage systems and flood resilient construction methods, the proposal could adequately manage residual flood risks and not increase the flood risk to adjacent properties.
28. Much of this would rely on further details in support of this proposal but, subject to this, I find that it can be demonstrated that the second part of the Exception Test is met. However, both parts must be met and, as this is not the case, 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 and be contrary to both Policy LP14 and the Framework.

### **Conclusion**

29. The CLLP is a newly adopted plan that has recently undergone examination. The appellants' case refers to the housing supply situation prior to the plan's adoption and has not been subsequently updated or added to. With regard to paragraph 49 of the Framework I have no reason to suppose that the relevant policies for the supply of housing should now be considered as not up-to-date in respect of demonstrating a five-year supply of deliverable housing sites. Therefore, it is not necessary to apply the tilted balance required by paragraph 14 of the Framework whereby permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
30. The proposal would provide moderate social benefits in helping to boost the supply of family-sized housing within West Lindsey in an environmentally sustainable location accessible to local facilities and by bus and cycle to services, secondary schools and employment in Gainsborough. However, these benefits would be clearly outweighed by the harm found to the open rural setting of the village and from the inefficient use of a green field site on the edge of the village where housing would be placed within an area at high risk of flooding. Consequently the development would not be appropriate for this location and I conclude that the appeal should be dismissed.

*Jonathan Price*

INSPECTOR

## Appendix 2. (Continued) Copies of appeal decisions – 17 South Street



---

# 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.
- 

### 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 plan<sup>1</sup> 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 village<sup>2</sup>, which is considered to be capable of growth of up to 15%<sup>3</sup> over the plan period. However, the supporting text<sup>4</sup> 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

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 states<sup>5</sup> 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 decisions<sup>6</sup> for residential development in Morton. In those instances, the Inspectors concluded that because of the scale of the first proposal<sup>7</sup> and the similarity between the two in terms of site area<sup>8</sup>, 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

---

<sup>5</sup> Paragraph 155

<sup>6</sup> APP/N2535/W/17/3172910 and APP/N2535/W/16/3152072

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

<https://www.gov.uk/planning-inspectorate>

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 years<sup>9</sup>, 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 consider that it has been satisfactorily or sufficiently demonstrated that wider sustainability benefits would outweigh the risk from flooding. The proposal 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.

## 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

## Appendix 2. (Continued) Copies of appeal decisions – Rear of 7 Mill Lane



## Appeal Decision

Site visit made on 18 October 2018

**by D Guiver LLB (Hons) Solicitor**

**an Inspector appointed by the Secretary of State**

**Decision date: 15 November 2018**

**Appeal Ref: APP/N2535/W/18/3202824**

**Land to the rear of 7 Mill Lane, Morton, Gainsborough DN21 3BW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Mr Mark Smith against the decision of West Lindsey DC.
- The application Ref 137020, dated 13 Nov. 2017, was refused dated 4 Jan. 2018.
- The development proposed is new dormer bungalow.

## Decision

1. The appeal is dismissed.

## Preliminary Matter

2. Since the date of the Council's decision, the NPPF 2018 (the Framework) has been published and has effect. The parties have had the opportunity to make representations on the effect of the Framework on the application and I have taken all comments into consideration in this decision.
3. In its decision notice the Council describes Mill Wood to the north of the appeal site as 'protected woodland' and there is indeed a tree preservation order dated 4 March 1985 (the TPO) in force which creates an area designation for trees in Mill Wood. However, while the



---

description in the Schedule to the TPO refers to 'mixed hard and soft woods', the attached plan limits the scope of the TPO to 'the several horse chestnuts, pine and silver birch in the area'. Where there is a discrepancy between the schedule and the plan, the relevant regulations<sup>1</sup> provide that the plan should prevail and therefore the TPO appears only to protect the named species.

4. There are two trees within Mill Wood close to the boundary with the appeal site whose root systems and canopies sit within the projected footprint of the building on the appeal site and would be affected by the proposed development. However, these trees are identified as common ash and therefore are not specifically protected by the TPO. Any effect of the proposal on these trees falls to be considered under the general requirements of planning law and the contribution to the character or appearance of an area.

---

<sup>1</sup> Regulation 3(4) of the Town and Country Planning (Tree Preservation)(England) Regulations 2012

### **Main Issues**

5. Therefore, the main issues are:

A - whether the proposed development is in a suitable location with regard to the potential for flooding; and

B - the effect of the proposed development on the character and appearance of the area, including its effect on trees.

### **Reasons**

6. The appeal site comprises a parcel of land within the rear garden of 7 Mill Lane close to the boundary with Mill Wood. The surrounding area is predominantly residential with a relatively recent development off Granary Close which lies adjacent to the appeal site. The proposal is for the construction of a dormer bungalow on the site close to the boundary with the wood. Access would be off Granary Close close to the corner of the site furthest from the existing No. 7.

### *Flood Risk*

7. Policy LP2 of the Central Lincolnshire Local Plan 2017 (the Local Plan) provides a spatial strategy and settlement hierarchy for development in the Council's administrative area and identifies Morton as a medium village. The Policy seeks to ensure that development in medium villages is limited in scale and occurs only in appropriate locations. In summary, appropriate locations are defined as locations where development would not conflict with other national or local policies and would retain the shape and character of a settlement. Policy LP4 of the Local Plan suggests that, given its size and key facilities, Morton could accommodate approximately 15% growth. However, this figure is subject to a caveat in paragraph 3.4.5 of the Local Plan that questions whether proposals would be able to overcome constraints in the village, specifically identifying flood risk as a concern. Policy LP14 requires that all development proposals in flood risk areas apply the sequential test and, if necessary, the exceptions test set out in the Framework.
8. The appellant provided a Flood Risk Assessment (the FRA) which identified that the village of Morton, including the appeal site, was in Flood Zone 3.

---

The FRA concluded that the risk of fluvial flooding was medium and other flood risks were low or not present. The appellant stated that because the whole of the village was within Flood Zone 3 the sequential test satisfied.

9. The appellant referred to two appeal decisions<sup>2</sup> for development proposals in the village where the question of the sequential test was considered. In each case the Inspector referred to the need for the sequential test to consider a wider area than the village because of the scale of the developments proposed, namely 37 dwellings and 9 dwellings respectively. The appellant appears to infer from this that a smaller development such as the current proposal could properly limit the scope of a sequential test to within the settlement boundary.

---

<sup>2</sup> APP/N2535/W/16/3152072 and APP/N2535/W/17/3172910

10. I do not have before me the evidence upon which the Inspectors reached their conclusions but accept that the scope of a sequential test should take into consideration the scale of a development, with larger proposals requiring a wider area for consideration. However, there is no compelling argument before me to justify limiting the scope of the sequential test to the village alone.

While a district-wide approach might be excessive when proposing a single dwelling, there is no explanation why the test should not consider other nearby settlements, including the town of Gainsborough which lies just to the south and is contiguous with the village.

11. The decision to limit the scope of the sequential test to the village without compelling reason appears to be an artificial and arbitrary approach. In the absence of an articulated reason for such a limitation I must take a precautionary approach and conclude that the sequential test provided does not satisfy the requirements of the Framework as there might be sequentially preferable sites within a reasonable area for the application of the test.
12. However, even if the sequential test was adequate and there were no sequentially preferable sites available, it would then become necessary to satisfy both arms of the exceptions test. The second arm of the test requires that the development be safe for its lifetime and would not increase flood risk elsewhere. Mitigation measures proposed in the FRA would be likely to satisfy this element and there is no compelling evidence that the scheme would increase flood risk elsewhere.
13. However, the first arm of the test states that it must be demonstrated that the development would provide wider sustainability benefits to the community that outweigh the flood risk. While the FRA assesses risk from fluvial flooding as medium the development would offer only a single additional dwelling. Neither party has suggested that the Council is unable to demonstrate a five-year supply of deliverable housing sites and therefore a single additional residential unit would present an extremely modest benefit that would not outweigh the potential flood risk.
14. Therefore, the proposal would not be in accordance with Policy LP14 of the Local Plan, notwithstanding the identification of Morton as potentially suitable for growth in Policies LP2 and LP4 of the Local Plan.



### *Character and Appearance*

15. The ash trees in Mill Wood on the boundary between the wood and the appeal site are relatively mature and valuable examples of such trees. One of the trees stands close to the proposed site entrance off Granary Close. This is a large tree with a trisected trunk whose roots form a visible mound 100mm or so above ground level that slopes down and reaches ground level on one side within a very short distance of the boundary fence with the appeal site. The root system is likely to continue for some distance just beneath the surface at this point. The vehicle access to the site and one corner of the proposed building would occupy the space above the likely location of the root system. The canopy of this tree overhangs the appeal site and over the proposed location of the dwelling by four metres. The canopy is relatively low and it occupies a prominent position close to Mill Wood's boundaries with the appeal site and Granary Close. The tree makes an important contribution to the character and appearance of the area.
16. The second ash tree is further back from Granary Close and stands closer to the rear of the footprint of the proposed house but is still in a relatively prominent position. The tree appears smaller and less mature than the first tree but is still an important and valuable tree in its own right. The root system and canopy would also be affected by the proposed development.
17. The appellant's tree survey proposes a number of measures to protect the roots of these trees during construction including giving options for the building foundations and the access road. Although no firm proposal has been made at this stage, a condition could require the appellant to submit firm plans to the Council for approval before the development begins.
18. However, the survey also proposes significant reduction of the trees' canopies over the footprints of the building (at circa 8.5metres to the front and five metres to the rear) and the access road (at 4.5metres). The trimming of the canopies by such an extent would have a marked and detrimental impact on the appearance of the trees and, given their prominence, on the character and appearance of the area, including the character and appearance of Mill Wood.
19. Therefore, while the trees' roots might be protected, subject to approval of details, the harm to the canopies would not accord with Policies LP17 and LP21 of the Local Plan which seek to ensure that developments protect and enhance habitats and sites of local importance and protect and enhance the character and appearance of the natural landscape.

### **Other Matters**

20. While not forming a reason for refusal, I am mindful of my statutory duty, arising under section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, to have special regard to the desirability of preserving listed buildings or their settings when considering the grant of planning permission. Setting is defined in the Framework as the surroundings in which a heritage asset is experienced and is more than simply the view of an asset. The site notice referred to the proposed development being within the setting of a Grade II listed building, namely the Mill at Gainsborough Laundry, which is a tall slope-walled mill topped with a wooden dome.

21. However, the building has been surrounded by a small modern housing estate and the setting is now defined by reference to that housing. The proposed development would not differ materially from the other, closer housing and therefore would not have any appreciable impact on the listed building or its significance as a heritage asset.
22. The Council stated that the parking provision identified in the proposal would be inadequate but did not specify this as a reason for refusal. The proposal would provide an integral garage and an exterior driveway that could be used for vehicle turning or as an additional parking space. Given the scale of the proposed development the parking provision would be adequate. I note that the Council did not provide any detailed clarification for the statement that the provision was inadequate and that the highway authority did not object to the proposal on any highway or parking grounds. However, while the parking concerns about flood risk or the significant harm to the character and appearance of the area by the proposed tree-trimming.

### **23. Conclusion**

24. Therefore, for the reasons give above and taking into account all other material considerations, I conclude that the appeal should be dismissed.
25. D Guiver INSPECTOR