
**SUPPLEMENTARY INFORMATION, IN
SUPPORT OF :**

Proposed Bespoke Dwelling
Land At 'The Garage House', Great North Road,
South Muskham, Newark-on-Trent.

For :
Mr and Mrs Brown

Date :
March 2021

vervearchitecture
architecture + planning consultancy

Introduction

This document has been produced as supplementary supporting information for the resubmission of withdrawn application 19/01773/FUL.

A planning application was submitted in September 2017 (ref – 17/02016/FUL), which was refused in January 2018. A subsequent appeal to the Planning Inspectorate was dismissed in March 2019.

Although the original application was refused and the appeal dismissed, the conclusion of the Inspectorate asserted that the principle of development was broadly acceptable and the site was deemed to be a sustainable location.

A subsequent application was submitted in September 2019. However, this was withdrawn in March 2020 following assertions from the Case Officer that this application would be refused as it was felt the application site would not pass the sequential test.

Also of relevance is recently approved (via appeal) application 19/00782/FUL, dated 9 October 2020, and refused application 19/00766/OUT.

Supplementary Information

When determining the application, the starting point of the decision-maker should be, quite simply “should the development be there?”

To this end, there are clearly two competing key issues, both backed by strong policy assertions.

Against the proposed development, is the location of the site within an area identified as a Flood Zone 2 by the Environment Agency flood maps.

In Favour of the development is the requirements of both the Housing Needs Survey for South Muskham, and the recently ratified district-wide Housing Needs Assessment.

Since the original application was submitted on September 2017, the Amended Core Strategy has been adopted, and the National Planning Policy Framework updated.

The Issue of Flood Risk

Paragraph 155 of the NPPF states :

“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”

Core Policy 10 seeks to :

“Steer new development away from those areas at highest risk of flooding, applying the sequential approach to its location detailed in Policy DM5 ‘Design’. Where appropriate the Authority will seek to secure strategic flood mitigation measures as part of new development”

Policy DM5 ‘Design’, sub-section 9, of the Allocations and Development Plan, advises :

“The Council will aim to steer new development away from areas at highest risk of flooding. Development proposals within Environment Agency Flood Zones 2 and 3 and areas with critical drainage problems will only be considered where it constitutes appropriate development and it can be demonstrated, by application of the Sequential Test, that there are no reasonably available sites in lower risk Flood Zones.

During the course of application 19/01773/FUL, the Case Officer referenced paragraph 20 of the PPG for Flood Risk and Coastal change (06/03/2014), advising that the sequential test should be applied district wide.

However, the same Case Officer, in the report to the Planning Committee for the very first application, 17/02016/FUL, dated 16 January 2018 advised *“I am mindful that the Sequential Test has been applied at a local level and can be deemed to pass in light of the local need. With regards the Exception Test I conclude that the development can be made safe for its lifetime subject to the above requirements* being conditioned. The provision of a house that would meet a wider need for the community would fulfil the requirements of the Exception Test. The proposed development in flood terms is therefore considered to be acceptable.”*

**(mitigation measures as proposed in the submitted FRA)*

Whilst the Case Officer will assert that there has been changes to the Core Strategy and the NPPF, the guidance advised through the PPG has remained unchanged since 2014. On the first planning application, the development was deemed acceptable in flood risk terms. However, there was then a complete change of opinion in respect of the second application. This demonstrates a lack of consistency in the application of an unchanged PPG.

In its appeal decision dated 09 October 2020 (appeal allowed), in respect of application 19/00782/FUL (which is directly over the road from the application site at the Garage House), the Planning Inspector’s ‘reasons for the recommendation’ advised *“A Flood Risk Assessment has been also provided, which concludes that subject to the mitigation measures which can be conditioned, the development is considered to be acceptable from a flood risk perspective”*.

The LPA Case Officer, in respect of the above, also advised in their committee report that *“The Sequential test has been applied at a local level and this needs to be weighed in the planning balance. However, the development can be made safe for its lifetime when the suggested conditions are imposed and thus the Exception test is considered to have been passed”*.

The Case Officer concluded *“Although the site falls within Flood Zone 2 given the existing flood defences that are in place the development can be made safe for its lifetime without resulting in flood risk to neighbouring properties or the wider settlement”*.

The entirety of South Muskham, as can be seen on the adjacent extract from the Environment Agency, is within either Flood Zone 2 or Flood Zone 3.

When faced with an entire community within either Flood Zone 2 or Flood Zone 3, the application of a district-wide, rather than local-level area for the Sequential Test essentially precludes any development within that village. This is effectively a moratorium on growth.

Paragraph 30 – Applying the Sequential Test to individual planning applications – of the PPG for Flood Risk and Coastal change (06/03/2014), advises *“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”*. The same paragraph goes on to proffer *“For example, where there are large areas in Flood Zones 2 and 3 . . . and development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives”*.

The PPG further asserts *“When applying the Sequential Test, a pragmatic approach on the availability of alternatives should be taken”*.

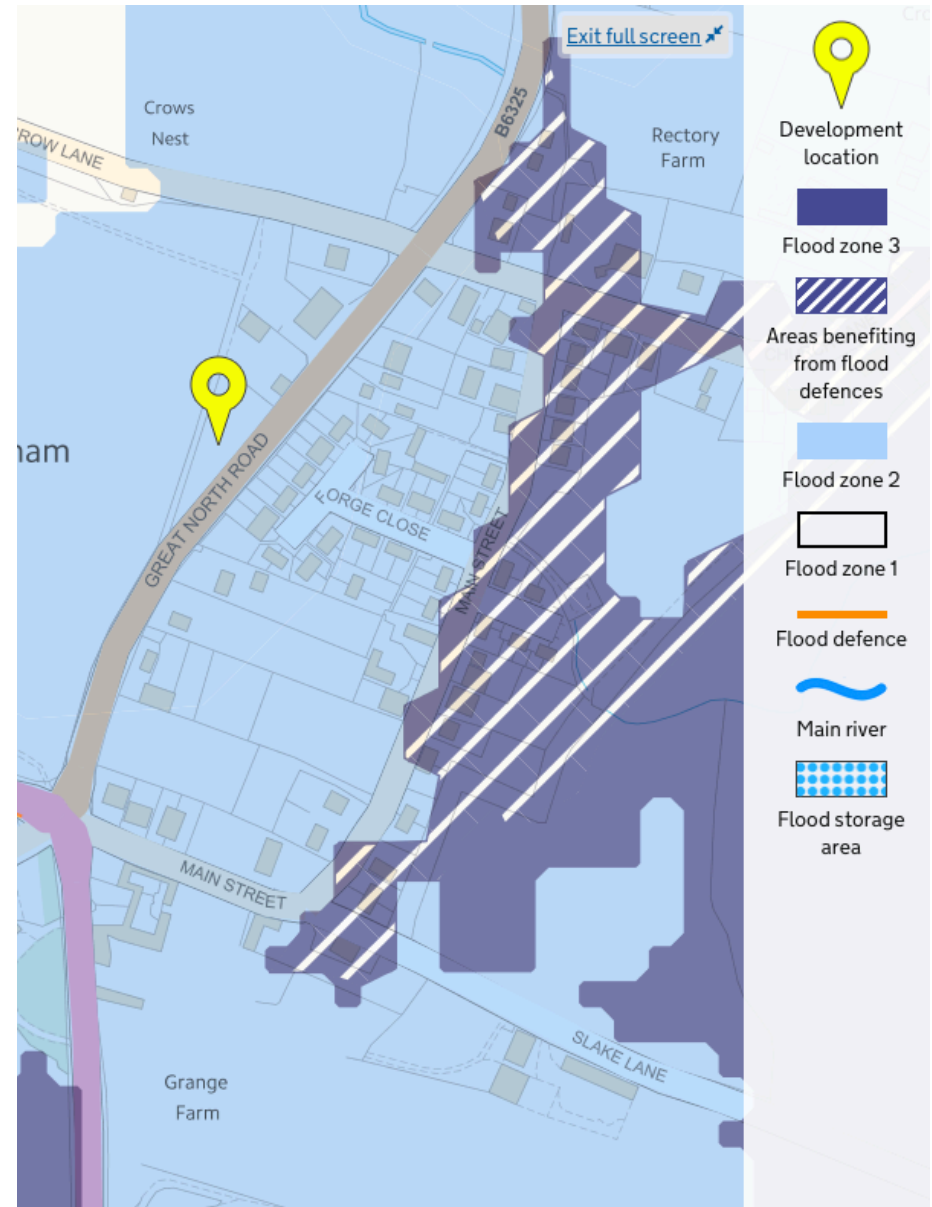


Image 1 – South Muskham in relation to Environment Agency Flood Map

The Question of Need

The settlement hierarchy within Spatial Policy 1 of the Core Strategy identifies South Muskham as an 'other village'. As such, development should be considered against Spatial Policy 3.

Spatial Policy 3 highlights that local housing needs will be addressed by focusing housing in sustainable, accessible villages, and that development beyond 'principal villages' (of which South Muskham would qualify) should be considered against five key criteria; location, scale, need, impact and character.

In the pre-application response (20 August 2019), prior to submission of application 19/01773/FUL the LA forwarded that *"South Muskham itself has church, a primary school and a village hall. Given the transport links, close proximity to Newark Town Centre, and the services within the village I consider South Muskham to be a sustainable location for one new dwelling. The site is the garden of an existing dwelling within the village and as such is included as part of the village. The location therefore is acceptable in principle"*.

On the issue of need, the same pre-application response asserted that *"An additional dwelling would contribute to the Council's 5 Year Housing Supply. Providing the proposal accords with the other criteria in Spatial Policy 3, there is presumption in favour of new dwellings and would therefore be acceptable in principle"*.

Spatial Policy 3 of the Adopted Core Strategy states that *"Local housing need will be addressed by focusing housing in sustainable, accessible villages"*. As has been demonstrated above, it is agreed the site is a sustainable site in an accessible village.

Spatial Policy 3 further asserts *"Within settlements which do not meet the locational criterion of this policy but are well related to villages that do, consideration will be given to the infilling of small gaps with 1 or 2 dwellings so long as this does not result in the joining of outlying areas into the village in question, or the coalescence with another village. Such development will need to comply with the scale, need, impact and character criteria of this policy"*.

On the criteria of 'need', Spatial Policy 3 recognises *"New housing where it helps to support community facilities and local services. Neighbourhood Plans may set detailed policies reflecting local housing need"*.

In the absence of a current neighbourhood plan, a relevant, local, Housing Needs Survey must surely be afforded the necessary weight.

The South Muskham Housing Needs Survey (March 2015), conducted by Midlands Rural Housing, concluded there is an identified preference for 11 open market houses for people who wish to remain in the village. Of this preference, two properties were identified as three-bedroom, and two as four-bedroom.

The study not only investigated the actual affordable housing need of the Parish, but also peoples' preferences for market rent level housing and open market housing. In addition, the survey ascertained residents' views with regard to living in the Parish and support for local needs housing to help sustain local communities.

In reference to the identified need, it was recognised in the Committee report in respect of application 17/02016/FUL that the aforementioned Housing Needs Survey was valid, and it *"it is*

considered that a preference for a 4-bed unit (which this scheme would provide) still exists”.

This document went on to assert that “given the proven identified local preference/need for housing which hasn’t yet been met evidenced by the 2015 Midlands Rural Affordable Homes Assessment and the fact that all of the village is washed over by flood zone 2, irrespective of whether we consider the site to be in zone 1 or 2 it could be said to pass the Sequential Test as a local need for South Muskham cannot be sited anywhere else but in the parish of South Muskham”.

In their refusal of an application at a different site in South Muskham – 19/00766/OUT (dated 29 January 2020) – the LPA took the stance that the Housing Needs Survey carried little weight due to its age :

“It is therefore the LPA’s submission that the housing needs survey should be afforded limited weight that should not justify the restriction of the Sequential Test to just the village. The survey is now nearly 5 years old and there is no guarantee that the respondents of the survey who have identified a ‘preference’ for housing in the village would be in a position to afford this dwelling and therefore there is no certainty that the development would meet the needs of the survey in any case.”

However, in its appeal decision dated 09 October 2020 (eight months after the above refusal), in respect of application 19/00782/FUL (which is directly over the road from the application site at the Garage House), the Planning Inspector concluded “a Housing Needs Survey dated 2015 has been provided. This identifies a need for a level of open market housing that the proposal would meet. Furthermore, the proposal would be located in an area of other residential housing with local services in a reasonable proximity such that future residents would have

access to facilities to meet daily needs”. (underlined for emphasis).

Given the Planning Inspectors’ findings, we would assert that the 2015 Housing Needs survey is relevant and should be afforded the necessary weight in the decision-making process.

In January 2021, Newark and Sherwood District Council ratified the District Wide Housing Needs Assessment by arc4. This document identified that the district had a target of 454 new dwellings, per annum, for the period 2019-2033.

This document divided the District area into eight sub-areas for the purposes of identifying housing need.

South Muskham is placed within the ‘Rural South’ sub-area, along with 17 other villages / settlements. The Rural South is identified in Table 5.11 as having a ‘dwelling mix and future development priority’ of 56% for three-bedroom and four-bedroom dwellings (20.2% three-bedroom and 35.8% four-bedroom).

South Muskham has been explicitly referenced as one of the villages within the Rural South sub-area that is expected to accommodate the districts housing needs. It therefore follows that the village should be expected to accommodate a proportional distribution of these new dwellings over the 14-year period covered by the Assessment. Otherwise, why include the settlement within the assessment?

Paragraph 1.2 of the District Wide Housing Needs Assessment Sub Areas Summary “defines the 8 sub areas and their constituent parishes and then presents the key characteristics and findings of the needs assessment for each sub area”.

 (underlined for emphasis).

The same document goes on to state *“Rural South needs (more) 4-bedroom family housing than the district as a whole”*. (sic)

In an effort to understand the viability of the towns and villages highlighted in the Rural South sub-area, these locations have been cross-referenced with N&SDC’s own Strategic Housing Land Availability Assessment (SHLAA) document. Whilst we recognise this document is over ten years old, there is no more recent / up-to-date information available, so this must be accepted as current and the due-weight attached.

Of the 18 towns and villages highlighted in the Rural South sub-area that were cross-referenced, six were returned with *“As this Parish is not a settlement prioritised for Assessment, no sites have been identified through the Planning Officer led Desktop search exercise”*.

It therefore follows that the ability for the Rural South sub-area to accommodate its proportional share of the additional dwellings target is condensed from 18 potential locations, to 12. This clearly puts more pressure on the remaining 12 locations within the sub-area to accommodate the dwellings needed for N&SDC to achieve its targets.

To then discount a site, where a proven and identified local need exists and which can coalesce with an identified flood mitigation strategy, puts even greater strain on the remaining settlements and creates a disproportionate and lopsided growth within the sub-area.

Conclusion

It is clear from the Environment agency flood zone map that there are 'large areas in Flood Zones 2 and 3'; this is the entire village of South Muskham.

It has been demonstrated through the assertions of the South Muskham Housing Needs Survey and the District Wide Housing Needs Assessment that there is an identified need for housing within the village to sustain the existing community.

It has also been demonstrated via reference to paragraph 30 – Applying the Sequential Test to individual planning applications – of the PPG for Flood Risk and Coastal change that when “*development is needed in those areas to sustain the existing community, sites outside them are unlikely to provide reasonable alternatives*” and that in these circumstances “*a pragmatic approach on the availability of alternatives should be taken*”

When faced with an entire community within either Flood Zone 2 or Flood Zone 3, the application of a district-wide, rather than local-level area for the Sequential Test essentially precludes any development within that village. This is not a 'pragmatic approach', and is therefore against the assertions of paragraph 30 of the PPG.

Paragraph 155 of the NPPF advises that development should be directed 'away from areas of highest risk'. CP10 seeks to 'steer new development away from those areas at highest risk of flooding'.

As has been proven in this application, whilst the site is within a 'blanket' Flood Zone 2, it is not an area at 'highest risk of flooding'.

The very definition of Flood Zone 2 in the Flood Risk and Coastal Change PPG, paragraph 65, is 'medium probability' or 'Land having between a 1 in 100 and 1 in 1,000 annual probability of river flooding'.

Given that the entirety of South Muskham, when viewed on the Flood Map, is within Flood Zone 2 and 3, this application has therefore demonstrated that the application site is 'reasonably available' and at a sequentially lower risk to other areas within the village.

The assertions of the Planning Inspector with respect to the flood risk issue in regards the appeal for application 19/00782/FUL concludes “*subject to mitigation measures which can be conditioned, the development is considered to be acceptable from a flood risk perspective*”.

It should also be recognised that both applications to date on this site have received full Parish Council support.

It has been unequivocally demonstrated that there is a clear need for residential development of three and four-bedroom properties within South Muskham in order to sustain the existing community. When taking a pragmatic approach on the availability of sites, it has also been demonstrated that the application site is at a sequentially lower risk to other areas within the village.

Accordingly, planning permission for a single dwelling, as presented, should be approved without delay.