



## Appeal Decision

Site visit made on 7 March 2019

**by D J Barnes MBA BSc(Hons) DipTP MRTPI**

**an Inspector appointed by the Secretary of State for Housing, Communities and Local Government**

**Decision date: 02 April 2019**

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**Appeal Ref: APP/B3030/W/18/3217750**

**Wharf Cottage, Carlton Ferry Lane, Collingham, Newark NG23 7LZ**

- 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 Grocock against the decision of Newark and Sherwood District Council.
  - The application Ref 18/01495/FUL, dated 4 August 2018, was refused by notice dated 1 October 2018.
  - The development proposed is the construction of a new driveway.
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### Application for Costs

1. An application for costs was made by Mr Mark Grocock against Newark and Sherwood District Council. This application is the subject of a separate decision.

### Decision

2. The appeal is allowed and planning permission granted for the construction of a new driveway at Wharf Cottage, Carlton Ferry Lane, Collingham, Newark NG23 7LZ in accordance with the terms of the application, Ref 18/01495/FUL, dated 4 August 2018, subject to the following conditions:
  - 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
  - 2) The development hereby permitted shall be carried out in accordance with the following approved plans: Revised Site Location Plan; Existing Block Plan and Proposed Block Plan.
  - 3) Prior to the commencement of development details about the existing and proposed finished ground levels shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the approved ground level shall be retained in accordance with these details.

### Main Issues

3. It is considered that the main issues are the effects of the proposed development on (a) the risk of flooding and (b) the character and appearance of the surrounding area.

## Reasons

### *Risk of Flooding*

4. The appeal site is located within Flood Zone 3b which is functional floodplain. Instead of sharing an existing access, the proposed development includes the erection of a drive to serve a dwelling and associated home office. To provide an independent access it is inevitable that the route would involve land within the floodplain.
5. The Council has assessed that the appeal scheme is residential development which would extend the domestic curtilage of the appellant's dwelling and, as such, it would fall within the most vulnerable form of development which should be resisted within Flood Zone 3b (Planning Practice Guidance paragraphs 066 Reference ID: 7-066-20140306 and 7-067-20140306 – Tables 2 and 3). However, the construction of the proposed drive would primarily be an engineering operation rather than involve a building used for a dwelling of the type referred to in the Practice Guidance as being a more vulnerable form of development within a floodplain. The proposed drive is equally not essential infrastructure of the type which is referred to in the Practice Guidance.
6. By reason of the proposed development not being readily categorised, a proportionate approach been adopted in the determination of this appeal. Consideration has, therefore, been given as to whether the appeal scheme would have the characteristics of a minor development similar to the examples referred to in the Practice Guidance (paragraph 046 Reference ID: 7-046-20140306) as being unlikely to raise significant flood risk issues subject to specific matters being addressed (paragraph 047 Reference ID: 7-047-20150415).
7. A 50mm sub base of permeable limestone is proposed as the surface of the proposed drive and reference is made to the appeal scheme not raising of the existing ground level. The assessment of this appeal as a minor development is, therefore, predicated on there being no changes to the existing ground level which might otherwise reduce, in a modest manner, the capacity of the functional floodplain. This matter can be secured by a suitable condition.
8. From what was observed, the erection of the proposed drive would not have an adverse effect on a watercourse or any flood defences. The appeal scheme would also not impede access to flood defence and management facilities. Further, by reason of the ground levels not changing, there would be no adverse implications for the floodplain associated with the cumulative impact of similar developments having a significant effect on local flood storage capacity or flood flows. For these reasons, the appeal scheme would represent a minor development in the floodplain and, as such, it is unnecessary for either the sequential or exceptions tests to be undertaken.
9. A detailed site specific flood risk assessment, of the type referred to in paragraphs 163 and 164 of the National Planning Policy Framework (the Framework), has not been undertaken for the proposed development. However, for the reasons already provided, the flood risk would not be increased elsewhere.
10. There would be no material change to the flood risk for the occupiers of the host dwelling and associated home office as a consequence of the proposed

development. The appellant has referred to the warning and emergency evacuation plan associated with the planning permission for the home office and there also being a safe refuge for the occupiers of the dwelling within the upper storey. These matters would not be altered by the appeal scheme. The circumstances of accessing or evacuating the buildings across the floodplain would be unaltered whether the existing or proposed drive is used.

11. The appellant claims that the proposed drive is needed to provide access to the host property, including a home office. It is also claimed that the appeal scheme would provide an improved access for the appellant's sports cars with low suspension and avoid the need to use an unmade by-way to access the home office. Rather than demonstrating that the proposed drive necessary form of development within the floodplain these are personal reasons for the erection of the proposed drive. However, for the reasons already provided, the appeal scheme would not increase the flood risk elsewhere and there would be no change to the risk of those occupying the buildings.
12. The Council's position about a change to residential use has been noted but based upon the evidence available it is concluded that the proposed drive should be considered as minor development in flood risk terms and it would not present increased risk of flooding to the appellant or to others. Further, it is concluded that the proposed development would comply with national planning policy concerning the risk of flooding and, as such, it would also not conflict with Core Policies 9 and 10 of the Newark and Sherwood Core Strategy (CS) and Policy DM5 of the Allocations and Development Management (ADM) Development Plan Document. These policies echo national planning policy and guidance concerning flooding and flood risk.

#### *Character and Appearance*

13. The proposed development includes the construction of an access drive which would parallel an existing drive which serves isolated properties within a rural area. Although there are currently mineral extraction activities which might be intensified, the area around the appeal site is open and verdant countryside.
14. The types of development considered appropriate within the open countryside are referred to in ADM Policy DM8. The Council claim that the proposed drive is part of a residential development in the open countryside. However, the policy refers to new and replacement dwellings and is silent concerning access to dwellings.
15. The Planning Officer's report identifies that the site falls within the Trent Washlands Policy Carlton Holme River Meadowlands Landscape Character Area (LCA) This LCA has a flat topography with extensive areas of intensively farmed arable fields with few detracting features other than the loss of some historic field patterns to farmland. The policy action is to conserve the area, including the conservation of existing field patterns.
16. The existing and proposed drives would be separated by a field boundary which is principally defined by vegetation. The 2 drives would connect to provide a single access point from the road. A small part of this field boundary would be removed to create the connection and some fruit trees within the field would be removed. However, although some vegetation would be removed, the majority of the existing field boundaries around the proposed access would be retained rather than lost.

17. By reason of the choice of materials, visually the drive would have the character and appearance of a typical farm track or other access to a rural property within the countryside. Further, unlike a building, the proposed drive would not project above the existing ground level encroaching into the openness of the countryside. Overall, the appeal scheme would conserve, rather than harm, the landscape character of the surrounding countryside's open and verdant character and appearance.
18. On this issue it is concluded that the proposed development would not cause unacceptable harm to the character and appearance of the surrounding area and, as such, it would not conflict with CS Core Strategy Policies 9 and 13 and ADM Policy DM5. Amongst other matters these policies refer to development respecting and complementing the landscape character of an area, retaining local distinctiveness and protecting and enhancing the natural environment.

*Other Matters*

19. The existence of a public right of way (PROW) has been noted but there are no specific objections from the Ramblers Association. The proposed development would not unacceptably interfere with the PROW's use.
20. The appellant and the Council have referred to several other schemes within the surrounding area where there is a difference about their relevance to this appeal. However, this appeal has been determined on its own planning circumstances.

**Conditions**

21. The Council has suggested several conditions in the event this appeal succeeds which have been assessed against the test in the Framework and the Practice Guidance. A condition specifying the relevant drawings is necessary as this provides certainty. For the reason already given, a condition is necessary concerning the level of the proposed development to ensure that the existing ground level is retained in the future.

**Conclusion**

22. For the reasons given, it is concluded that this appeal should be allowed.

*D J Barnes*

INSPECTOR