APPLICATION NO PA/2022/21

APPLICANT Mr J Hackney

DEVELOPMENTOutline planning permission to erect one dwelling with all

matters reserved for subsequent consideration

LOCATION Land rear of Leaden House, Cherry Lane, Barrow upon Humber,

DN19 7AX

PARISH Barrow upon Humber

WARD Ferry

CASE OFFICER Martin Evans

SUMMARY Refuse permission

REASONS FOR

RECOMMENDATION

REFERENCE TO COMMITTEE

Member 'call in' (Cllr David Wells – "the applicant is a Barrow upon Humber Parish Councillor and I believe the decision should be taken independently with the full local information that the Parish Council has not commented on as the application as

he is a councillor")

POLICIES

National Planning Policy Framework:

Paragraph 7 states, 'The purpose of the planning system is to contribute to the achievement of sustainable development. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs.'

Paragraph 8 states, 'Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):

- (a) an economic objective to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
- (b) a social objective to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural wellbeing; and
- (c) an environmental objective to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and

pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.'

Paragraph 9 states, 'Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.' It also explains that the three overarching objectives are not criteria against which every decision can or should be judged.

Paragraph 10 states that at the heart of the Framework is a presumption in favour of sustainable development.

Paragraph 11 sets out the presumption in favour of sustainable development and confirms that, for decision-taking, this means:

- (c) approving development proposals that accord with an up-to-date development plan without delay; or
- (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting planning permission unless:
 - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

Paragraph 38 states, 'Local planning authorities should approach decisions on proposed development in a positive and creative way...Decision-makers at every level should seek to approve applications for sustainable development where possible.'

Paragraph 47 makes clear that 'Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.'

Paragraph 130 states, 'Planning policies and decisions should ensure that developments:

- (a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
- (b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;
- (c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

- (d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
- (e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
- (f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Paragraph 159 – 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.

Paragraph 162 – The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

North Lincolnshire Local Plan: DS1, DS7, DS14, DS16, H5, H7, LC12, T2, T19 and RD2

North Lincolnshire Core Strategy: CS1, CS2, CS3, CS5, CS7, CS8, CS17 and CS19

Housing and Employment Land Allocations Development Plan Document (DPD): PS1

The site lies outside the development limits of Barrow upon Humber and is unallocated as shown on Proposals Map Inset 6 - Barrow upon Humber.

CONSULTATIONS

Highways: Support the proposal, recommending conditions.

LLFA Drainage: Recommend conditions regarding a flood risk statement and drainage strategy, and to prevent water flowing from the site onto the highway and vice versa, together with an informative regarding the underlying geology.

Environmental Protection: Recommends a condition relating to any contamination found during construction.

Tree Officer: There are many trees that need to be considered. Presently the access would see the potential removal of many mature trees. An arboricultural report to BS5837:2012 is suggested as being required to see if there is an ability to develop this site.

Environment Agency: 'As identified in the submitted flood risk assessment (FRA), the site lies within Flood Zone 3 of the Flood Map for Planning. With reference to our tidal hazard mapping (2115 breach scenarios) it is partly within the "low hazard" area, where modelled

depths are 0–0.25m. The FRA proposes a finished floor level solely on the basis of a previous proposal for the site. We therefore recommend the following planning condition in accordance with our local flood risk standing advice: "Finished floor levels of the dwelling hereby permitted shall be set no less than 300mm above pre-existing ground level." Sequential test advice is provided.

PARISH COUNCIL

As this applicant is a fellow councillor, Barrow upon Humber Parish Councillors do not wish to comment on this application.

PUBLICITY

A site notice has been displayed. One response has been received from a resident noting the refusal of PA/2018/633 and that very little has changed, hence the previous ruling should be upheld.

ASSESSMENT

This application was deferred at a previous meeting of the planning committee to allow members to visit the site before making a decision.

Planning history

PA/2018/633:

Planning permission to erect a two-storey dwelling with detached garage – refused 02/07/2018 for the following reasons:

1.

Due to its siting, scale, massing and design, the proposal conflicts with the existing built form in this location and would be detrimental to the character and appearance of the countryside. The proposal is therefore not contextually relevant to its setting. Furthermore, the applicant has failed to demonstrate the sustainability of the proposal in terms of its economic, social and environmental impacts and it is considered that the identified harm to the character and appearance of the area would outweigh any benefits of the proposed development. The proposal is therefore contrary to policies CS1, CS2, CS3 and CS5 of the North Lincolnshire Core Strategy, policy RD2 of the North Lincolnshire Local Plan and paragraph 14 of the National Planning Policy Framework.

2.

The applicant has failed to demonstrate that there are no suitable sites available within an area of lower flood risk. The proposal is therefore contrary to policy CS19 of the North Lincolnshire Core Strategy.

An appeal against the refusal of planning permission (reference APP/Y2003/W/18/-3212091) was dismissed on 09/01/2019 with the Inspector deciding:

'7. The design of the proposed house is an attractive, well-proportioned modern dwelling incorporating a number of traditional design features and materials.

However, while such a property might be in keeping with houses along Cherry Road, the proposed location of the building and the accompanying detached garage would introduce a significant built form into the countryside.

- 8. The dwelling would be outside the existing build-line of properties on Cherry Road and would be in a prominent position. While there are some structures at Weaver Cottage to the east that are also beyond the build-line these appear to be in horticultural use and therefore would be an appropriate rural development. In any event there appear to be no other buildings for some distance north and west of the site. While it would be located to the rear of the existing house on the site the proposed dwelling would be highly visible from the footpath that passes close to the rear of the site along the flank boundary of the adjacent property at The Paddock.
- 9. Therefore, the proposed development would not accord with Saved Policy RD2 of the Local Plan or Policies CS1, CS2, CS3 and CS5 of the Core Strategy...
- 12. Notwithstanding the identification of the appeal site in Flood Zone 3 and the requirement for a sequential test and if necessary the exception test to be applied, no other sites have been identified or analysed. While the FRA does provide great detail about potential mitigation measures there is no detailed assessment of the potential for these measures to increase flood risk elsewhere. There is also no assessment of the wider sustainability benefits to the community that might arise from the proposal. Therefore, neither of the requirements of the exception test is addressed or satisfied.
- 13. In the absence of a properly formulated and applied sequential test and, if necessary, exception test the proposed development would not accord with Policy CS19 of the Core Strategy, which seeks to ensure that developments avoid areas at risk of flooding and apply sequential test to all proposals in flood risk areas. The scheme also fails to comply with the advice in the Framework.'

Site characteristics

The site is within the rear garden of Leaden House and within the open countryside in accordance with the HELA DPD. It is also within Flood Zone 2/3a in accordance with the SFRA 2021.

Proposal

Outline planning permission is sought to erect one dwelling with all matters reserved for subsequent consideration. The indicative layout shows the access to the west of that serving the host property and a dwelling located in the rear garden of Leaden House.

The following considerations are relevant to this proposal:

- the principle of development
- impact upon the character of the area
- impact upon residential amenity
- impact upon highway safety

- land contamination and drainage
- biodiversity.

Principle of development

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires planning applications to be determined in accordance with the development plan unless material considerations indicate otherwise. In this instance the development plan consists of the saved policies of the North Lincolnshire Local Plan (NLLP), the North Lincolnshire Core Strategy (NLCS) and the Housing and Employment Land Allocations Development Plan Document (HELADPD). Material considerations exist in the form of national policy and guidance contained within the National Planning Policy Framework (NPPF) and the suite of documents comprising National Planning Practice Guidance (NPPG).

Central Government places high importance on new homes being delivered throughout the country to address the chronic shortage. Paragraph 11(d) of the NPPF states that housing applications should be considered in the context of the presumption in favour of sustainable development. Where the local planning authority cannot demonstrate a five-year supply of deliverable housing sites, relevant policies which guide the supply of housing should not be considered up-to-date. A recent review of the of the Five-Year Housing Land Position Statement in August 2021 identified that North Lincolnshire Council can demonstrate a five-year housing land supply. There is therefore no tilted balance applied through paragraph 11 of the NPPF.

Barrow upon Humber is classified as a Rural Settlement in the settlement hierarchy of the Core Strategy.

Policy CS1 sets out the spatial strategy for North Lincolnshire stating, 'The spatial vision and the future development requirements will be delivered through the spatial strategy for North Lincolnshire as outlined below and on the key diagram. The spatial strategy will focus on' an urban renaissance for Scunthorpe; supporting the market towns; and 'Supporting thriving rural communities and a vibrant countryside through the protection and enhancement of local services, creating opportunities for rural economic diversification and the promotion of tourism. Rural settlements will be supported as thriving sustainable communities, with a strong focus on retaining and enhancing existing local services to meet local needs. Development will be limited and should take into account levels of local service provision, infrastructure capacity and accessibility. Any development that takes place should be in keeping with the character and nature of the settlement.' It continues, 'All future growth, regardless of location, should contribute to sustainable development, in particular in respect of those criteria set out in policy CS2 as well as the other policies of the plan. All change will be managed in an environmentally sustainable way avoiding/minimising or mitigating development pressure on the area's natural and built environment, its existing utilities and associated infrastructure and areas at risk of flooding. Where development unavoidably has an environmental impact, adequate mitigation measures should be used for the development to be acceptable.'

Policy CS2 sets out that in supporting the delivery of the spatial strategy in policy CS1, as well as determining how future development needs will be met in North Lincolnshire, a sequential approach will be adopted with development firstly focused on the Scunthorpe urban area, then infill within the town, then greenfield urban extensions; secondly within the defined settlement limits of the market towns, then infill within them, then small-scale

greenfield extensions to meet local needs. It continues, 'A "sequential approach" will also be applied to ensure that development is, where possible, directed to those areas that have the lowest probability of flooding, taking account of the vulnerability of the type of development proposed, its contribution to creating sustainable communities and achieving the sustainable development objectives of the plan. Where development does take place in the flood plain, mitigation measures should be applied to ensure that the development is safe.'

The Housing and Employment Land Allocations DPD shows that the Barrow upon Humber development limit extends just to the south of the indicative location of the dwelling. The potential access is located within the development limit.

Policy CS3 states, 'Development outside these defined boundaries will be restricted to that which is essential to the functioning of the countryside. This will include uses such as those related to agriculture, forestry or other uses which require a countryside location or will contribute to the sustainable development of the tourist industry.' Policy CS5 requires development is well designed and appropriate for its context. Policy CS8 states in the open countryside outside development limits, housing development will be strictly limited; and development on greenfield sites will only be allowed where it can be demonstrated that this will bring additional community benefits, contributing to building sustainable communities and is acceptable in terms of its impact on the high-quality environment of the urban space and adjoining countryside.

Policy RD2 seeks to restrict development in the countryside unless certain exceptions are met.

The emerging local plan evidence base includes the North Lincolnshire Settlement Survey 2018 (2019 Revision). Barrow is ranked 12th out of 76 settlements in North Lincolnshire. The settlements have been scored based on the services and facilities available within each settlement boundary, and a rank attributed based on the overall outcome. Its facilities and services are good, with 5 of the 7 key facilities present. The settlement itself is a reasonably sustainable location for development.

Policy CS19 states, 'The council will support development proposals that avoid areas of current or future flood risk, and which do not increase the risk of flooding elsewhere. This will involve a risk-based sequential approach to determine the suitability of land for development that uses the principle of locating development, where possible, on land that has a lower flood risk, and relates land use to its vulnerability to flood. Development in areas of high flood risk will only be permitted where it meets the following prerequisites:

- 1. It can be demonstrated that the development provides wider sustainability benefits to the community and the area that outweigh flood risk.
- 2. The development should be on previously used land. If not, there must be no reasonable alternative developable sites on previously developed land.
- 3. A flood risk assessment has demonstrated that the development will be safe, without increasing flood risk elsewhere by integrating water management methods into development.

Development within the Lincolnshire Lakes area will comply with the flood management principals set out in the Western Scunthorpe Urban Extension Exception Test Strategy. Any further flood management proposals will have to be agreed by both the council and the

Environment Agency during the process of the Lincolnshire Lakes Area Action Plan. Development proposals in flood risk areas which come forward in the remainder of North Lincolnshire shall be guided by the Strategic Flood Risk Assessment for North Lincolnshire and North East Lincolnshire. This will ensure that proposals include site specific flood risk assessments which take into account strategic flood management objectives and properly apply the Sequential and, where necessary, Exception Tests.'

Policy DS16 states, 'Development will not be permitted within floodplains where it would:

- (i) increase the number of people or buildings at risk; or
- (ii) impede the flow of floodwater; or
- (iii) impede access for the future maintenance of watercourses; or
- (iv) reduce the storage capacity of the floodplain; or
- (v) increase the risk of flooding elsewhere; or
- (vi) undermine the integrity of existing flood defences unless adequate protection or mitigation measures are undertaken.'

The Strategic Flood Risk Assessment (November 2021) states:

'4.53 The areas shown as FZ2/3a on these maps should be considered as Flood Zone 3 as defined in NPPF when preparing development plans, making planning allocations or determining planning applications and informing the sequential test.'

The application site is beyond the Barrow development limit which means it is treated as being in the open countryside where development is strictly controlled.

Furthermore, it is within flood zone 2/3a tidal which is to be treated as flood zone 3 as set out in the SFRA. The proposal is for windfall development on an unallocated site. The planning statement and flood risk assessment put forward various reasons for the need for the proposal including it providing a retirement home for the applicants, who currently live in Leaden House, allowing them to create a bespoke single-storey dwelling to meet their needs allowing them to remain in the village where they have been part of the local community for a long period of time; and the applicant is on the Self-Build Register and they consider "it appears that so far, the local authority has not delivered on the self-build provision for in 6 years of the 2015 Act coming into place."

The FRA restricts the flood risk sequential test area of search to '1km walking distance from the application site or central Barrow upon Humber'. This is considered a reasonable area of search. The FRA demonstrates there are no reasonably available alternative sites at lower risk of flooding than the application site. The sequential test is passed and the NPPF requires the exceptions test is applied which states:

'1. It must be demonstrated that the development provides wider sustainability benefits to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment where one has been prepared; and 2. a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.'

The construction of the proposal would provide short-term economic benefits via employment; and occupation of the dwelling would provide a modest benefit to the viability of village services and facilities. These matters outweigh the flood risk and the FRA shows the proposal would be safe for its lifetime noting the lack of objection from the EA. The proposal passes the exceptions test.

The council's self-build register shows there is not yet an overdue unmet need. Therefore, the provision of a self-build dwelling is not considered to be sufficient justification for the proposal in a countryside location. The applicants' deep rooted connection to the village and professional achievements are not considered to be a reason to permit the proposal.

The Environment Agency raises no objection to the flood risk assessment and recommends a condition requiring finished floor levels to be 300mm above pre-existing ground levels. This would ensure the development is safe.

Whilst the flood risk implications are acceptable, the proposal is considered to be unjustified development in the countryside, contrary to policy RD2 of the local plan; policies CS1, CS2, CS3 and CS5 of the Core Strategy; and the provisions of the NPPF.

Impact upon the character of the area

Policy DS1 requires that a 'high standard of design is expected' and identifies that proposals will be considered against two criteria:

- (i) the design and external appearance of the proposal should reflect or enhance the character, appearance and setting of the immediate area; and
- (ii) the design and layout should respect and where possible retain and/or enhance the existing landform of the site.

Policy CS5 of the North Lincolnshire Core Strategy is also relevant. It states, '...All new development in North Lincolnshire should be well designed and appropriate for their context. It should contribute to creating a sense of place' and 'Design which is inappropriate to the local area or fails to maximise opportunities for improving the character and quality of the area will not be acceptable.'

Policy H5 requires new housing development to comply with a number of criteria.

Policy H7 states, 'Backland development or tandem development will be permitted provided that:...it would not affect the general quality and character of the area in which it is located by:...resulting in the loss of important natural and man-made features.'

Policy LC12 states, 'Proposals for all new development will, wherever possible ensure the retention of trees, woodland and hedgerows.'

The planning statement considers a single-storey dwelling with less impact than the previously refused and dismissed proposal could be secured. The applicant considers permitted development rights could be used to erect a large outbuilding with similar impacts to the proposal.

Despite the suggested reductions in the scale of the eventual dwelling and that this is an outline proposal as opposed to a full planning application, the Inspector's reasons for dismissing the appeal remain valid in that the proposed location of the building would introduce a significant built form into the countryside which would be outside the existing build-line of properties on Cherry Road and in a prominent position. While there are some structures at Weaver Cottage to the east that are also beyond the build-line, these appear to be in horticultural use and therefore would be an appropriate rural development. In any event there appear to be no other buildings for some distance north and west of the site. While it would be located to the rear of the existing house on the site, the proposed dwelling would be highly visible from the footpath that passes close to the rear of the site along the flank boundary of the adjacent property at The Paddock. Therefore, the proposed development would not accord with policy RD2 of the local plan or policies CS1, CS2, CS3 and CS5 of the Core Strategy.

The site and host property have a verdant character with multiple trees along the indicative access and dwelling location. The application does not provide an assessment of the impact of the proposal upon these trees. The potential loss of multiple trees is considered harmful to the character of the area contrary to policies DS1, CS5, H5, H7 and LC12.

Impact upon residential amenity

Policy DS1 is partly concerned with impacts upon residential amenity. It states, '...No unacceptable loss of amenity to neighbouring land uses should result in terms of noise, smell, fumes, dust or other nuisance, or through the effects of overlooking or overshadowing'.

Policy H5 requires 'development does not result in overlooking or a loss of privacy to existing developments, or any other loss of amenity to existing dwellings'. Policy H7 also protects residential amenity.

Indicative separation distances of 20m are shown between the proposed dwelling, the host property and The Paddocks. A gap of 24m is shown to Weaver Cottage. The site is capable of accommodating a dwelling without harm to residential amenity.

The proposal accords with policies DS1, H5 and H7 of the North Lincolnshire Local Plan in terms of residential amenity impacts.

Impact upon highway safety

Policy T2 of the North Lincolnshire Local Plan states that all development should be served by a satisfactory access. Policy T19 is concerned with parking provision as well as general highway safety.

The Highways department of the council raises no objection to the indicative access details. It recommends a series of conditions, some of which are irrelevant to an outline application and others which are necessary and would have been attached had the wider proposal been acceptable. It is noteworthy that one of the conditions requires no obstruction above 1.05m in height for a 2m depth across the site frontage. This may require removal of frontage trees which reinforces concerns about the lack of a tree assessment with the application. Ample on-site parking would be achievable.

As such there is not considered to be any conflict with the requirements of policies T2 and T19.

Land contamination and drainage

Policy DS7 requires consideration of contaminated land. Environmental Protection recommends a condition relating to any contamination found during construction.

Policy DS14 states, 'The council will require satisfactory provision to be made for the disposal of foul and surface water from new development, either by agreeing details before planning permission is granted, or by imposing conditions on a planning permission'. Foul drainage would be to mains sewer and surface water to soakaway. Final details will be secured by condition.

The LLFA recommends conditions regarding a flood risk statement and drainage strategy; and to prevent water flowing from the site onto the highway and vice versa. A drainage strategy would need to be conditioned.

Biodiversity

Policy CS17 requires 'Ensuring development seeks to produce a net gain in biodiversity by designing in wildlife'. Ecological enhancements would need to be conditioned.

Conclusion

The proposal amounts to unjustified residential development in the countryside that harms the character of the area. No harm would arise to residential amenity or highway safety. Drainage, contamination and biodiversity matters can be dealt with by condition. The harm identified significantly outweighs the modest benefits associated with the construction of a single dwelling.

RECOMMENDATION Refuse permission for the following reasons:

- 1. The proposal is unjustified residential development in the countryside, contrary to policy RD2 of the North Lincolnshire Local Plan; policies CS1, CS2, CS3 and CS5 of the Core Strategy; and the provisions of the National Planning Policy Framework.
- 2. The proposed location of the building would introduce a significant built form into the countryside which would be outside the existing build-line of properties on Cherry Road in a prominent position. While there are some structures at Weaver Cottage to the east that are also beyond the build-line, these appear to be in horticultural use and therefore would be an appropriate rural development. In any event there appear to be no other buildings for some distance north and west of the site. While it would be located to the rear of the existing house on the site, the proposed dwelling would be highly visible from the footpath that passes close to the rear of the site along the flank boundary of the adjacent property at The Paddock. Therefore, the proposed development would not accord with policy RD2 of the North Lincolnshire Local Plan or policies CS1, CS2, CS3 and CS5 of the Core Strategy.
- The site and host property have a verdant character with multiple trees along the indicative access and dwelling location. The application does not provide an assessment of the impact of the proposal upon these trees. The potential loss of multiple trees is considered harmful to the character of the area contrary to policies DS1, H5, H7 and LC12 of the North Lincolnshire Local Plan and policy CS5 of the Core Strategy.

Informative

In determining this application, the council, as local planning authority, has taken account of the guidance in paragraph 38 of the National Planning Policy Framework in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the area.













