

**RECENT APPEAL DECISIONS TO 2 July 2013**

**Application Ref: S11/1401/LDE LDPP**  
**Planning Inspectorate No: APP/E2530/X/12/2181168**

Appeal Type: **Written Evidence**

Appellant:	Mr Martin Foster
Proposal:	Lawful Development Certificate (Existing) - Use of land as residential garden
Site:	Greenfields House, 5, Greenfields Lane, Folkingham, Sleaford, NG34 0SH

Appeal Decision – Date:	Appeal allowed - 18 June 2013
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**SUMMARY**

The application was determined under delegated powers and refused Lawful Development on the grounds of lack of evidence to accept that the land has been utilised as residential garden land for a period exceeding 10 years and therefore the existing use is unlawful.

The inspector concluded that there was no substantial evidence to contradict the applicants account, which is corroborated by evidence from third parties, sworn and unsworn, any ambiguities in the appellant's evidence or surrounding circumstances have been explained. Government guidance in Circular 10/1997 makes it clear that the relevant standard of proof is the balance of probability. Given the weight of evidence in the applicants favour, it appears that the Council has applied a significantly higher standard of proof.

The applicant was rewarded full costs.

**Application Ref: S12/1755/MJRF SB**  
**Planning Inspectorate No: APP/E2530/A/13/2195568**

Appeal Type: **Informal Hearing**

Appellant:	Larkfleet Limited
Proposal:	Development of 49 dwellings for occupiers aged 55 and over, communal hall, vehicular access, amenity open space, landscaping, allotments and associated works.
Site:	Land Off, Chesham Drive, Baston

Appeal Decision – Date:	Appeal withdrawn - 26 June 2013
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**SUMMARY**

Following the resolution by Development Control Committee to approve a revised application for a similar development, subject to the signing of a s106 planning obligation, Larkfleet Limited has withdrawn the appeal in order to avoid an unnecessary informal hearing.

**Application Ref: S12/2730/FULL PJM**  
**Planning Inspectorate No: APP/E2530/A/21932905**

Appeal Type: **Written Evidence**

Appellant:	Mr & Mrs J Clark
Proposal:	Erection of dwelling
Site:	Plot adjacent 3, Casthorpe Road, Barrowby, NG32 1DW

Appeal Decision – Date:	Appeal allowed with conditions - 13 June 2013
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**SUMMARY**

The appeal is allowed and planning permission granted for the erection of a dwelling on land adjacent to No 3, Casthorpe Road, Barrowby,

**RECENT APPEAL DECISIONS TO 2 JULY 2013**

The main part of the proposed dwelling fronting Casthorpe Road would be identical to the proposal for which planning permission was granted in September 2012 under planning application S12/0910. The Inspector considered that this previous permission, still extant, is an important material consideration in the determination of this appeal. The Inspector noted that part of the dwelling which would accommodate the garage would be taller and somewhat wider when viewed from Casthorpe Road than as previously approved. Although therefore larger, it would still be of appreciably less massing than, and so subordinate in scale to, the main part of the dwelling.

The development would include 2 dormer windows to the accommodation at first floor level. Owing to the location of the site outside the Conservation Area, the Inspector considered that the modest scale of the dormer windows, their subordination within the roof and the number of other such windows nearby, they would not be so discordant and alien in this locality to cause any material harm to it.

The east elevation of the proposed dwelling would project further towards Mill Row than would have been the case with the previous scheme, but would stop short of the carriageway by approximately 2 m. The Inspector considered that it would therefore be closer to the carriageway than as previously proposed. Nevertheless, this closeness he considered would still respect the prevailing arrangement of buildings along Mill Road. Its one and a half storey scale, its modest height and massing would not appear out of place in its surroundings. The building as a whole would be larger than many in this locality, but not greatly more so than would have been the approved scheme.

The development he noted would have an effect on the locality simply by its presence, but not to the extent that it would constitute serious harm to it, including the setting of the Conservation Area.

Mill Row is about 4.5 – 5.0 m wide at the point where the projecting eastern part of the dwelling would be built. Owing to the distance between the existing and proposed dwellings, the limited height of this part of the scheme which would be appreciably less than its main part, the Inspector considered that any overbearing effect would not be so great as to constitute dominance. Nor, with these distances, would it result in a serious loss of outlook.

The Inspector went on to say that the distance between proposed and existing buildings and the evidence of the drawings accompanying the appeal should prevent any significant loss of natural light at No 1. Indeed, the removal of trees he considered and other vegetation at the eastern boundary of the site to allow the development to take place may reduce the amount of any loss of natural light to this dwelling. The harm to living conditions enjoyed by residents at Mill Row would not, therefore in the opinion of the Inspector, be serious. Thus the Inspector concluded that the proposal does not conflict with the aim of Policy EN1 to secure a suitable layout and scale of buildings in so far as the protection of residential amenity is concerned. Nor did it conflict with the policy in the Framework to ensure that design is of a quality which contributes positively to making places better for people.