DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H01-0959-22	**Applicant:**	Mr A Neal
Proposal:	Use of land to provide base for and erect an array of solar panels for domestic use		
Location:	Warrens Rest Capes Entry Cowbit		
Terminal Date:	28th December 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework 2021

Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposal is for the erection of a ground-mounted solar array, for domestic use, on a paddock to the south-east of Warren's Rest. The development measures 21.5 square metres. Gravel will be placed at the base of the panels.

Site Description

The panels will be arranged to the south of Orchard Cottage, to the south-east of Warren's Rest. The land is currently used as a paddock by the owner of Warren's Rest. The development is sited away from the public highway and is obscured by both a dwelling and hedgerows. The property is not visible from any major highway as it is located down a series of minor roads.

The site is located approximately 750 metres north-east of Cowbit, sitting outside of the settlement boundaries outlined in the South-East Lincolnshire Local Plan (SELLP). Therefore, the property should be considered in the countryside.

Relevant History

No relevant history.

Consultation Responses

No consultation responses received.

Planning Considerations

Principle of Development

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The proposal will therefore be assessed on this basis.

The site is located outside of any settlement boundary within the SELLP. It is therefore in the countryside in planning terms.

Policy 1 of the SELLP states that development in the countryside will only be permitted where it is necessary to such a location and/ or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. As the proposed development would be within the residential curtilage of the existing dwelling and no new unit would be created in the open countryside, the principle of a development is considered acceptable; the details of the proposal is discussed in more detail below. The proposal would involve the development of renewable energy, thus achieving the aims of Policy 1 of the SELLP.

Layout, Design, Size and Scale

The proposal covers a relatively small plot of land (21.5 square metres). However, the panels are in close proximity to the neighbouring Orchard Cottage and would have a detrimental impact upon the residential amenity of that property through loss of outlook and the potential risk of glint and glare. As such it is considered the proposal would be contrary to Policies 2, 3 and 31B of South East Lincolnshire Local Plan 2019 and the intentions of the National Planning Policy Framework 2021.

The panels will be positioned facing south, away from Orchard Cottage. Consequently, the potential for glare reflecting from the panels, into the adjacent residential property, is somewhat reduced but could still be significant.

Therefore, the proposal is deemed unacceptable in for the reasons set out above.

Impacts Upon Resident Amenity

Paragraph 130 of National Planning Policy Framework (NPPF), amongst other matters, seeks to create places with a high standard of amenity for existing and future users. Policies 2 and 3 of SELLP set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

The proposed works would have a significant impact upon the residential amenity of the neighbouring property. The panels would be extremely visible and therefore, would come to dominate the views from the neighbouring property.

The proposal would be set back from any public highway and screened from general public view. It is therefore doubtful that the development would have any negative impacts on public visual amenity. As the proposal is obscured from roads, the development will not contradict the aesthetic

and character considerations of paragraph 130 of the NPPF.

Despite the lack of impact at a wider scale, the proposal fails to comply with Policies 2, 3 and 31B of the SELLP in terms of the impact on the resident amenity of the adjacent Orchard Cottage.

Sustainable Energy Production

Policy 31B of the SELLP relates to sustainable energy production. This policy states:

"the development of renewable energy facilities will be permitted provided, individually, or cumulatively, there would be no significant harm to: 1. visual amenity, landscape character or quality, or skyscape considerations; 2. residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic; 3. highway safety (including public rights of way); 4. agricultural land take; 5. aviation and radar safety; 6. heritage assets including their setting; and 7. the natural environment."

The proposal conforms to points three to seven of the policy. However, due to the proximity of the development to the neighbouring property, the proposal fails to achieve the aims of points one and two. There would be significant harm to the visual amenity as the solar array would become the focal point of the paddock when viewed from Orchard Cottage. There is a significant potential for sunlight reflection entering the neighbouring property.

Therefore, the proposed fails to achieve the aims of 31B of the SELLP.

Planning Balance

The negative impacts of the proposal are limited but significant. The damage to the visual amenity of the neighbouring properties is significant due to the proximity to the neighbouring property.

The panels are in close proximity to Orchard Cottage. The proposed solar array by reason of its siting in close proximity to the rear boundary of the neighbouring property would have a detrimental impact upon the residential amenity of that property through loss of outlook and the potential risk of glint and glare. As such it is considered the proposal would be contrary to Policies 2, 3 and 31B of South East Lincolnshire Local Plan 2019 and the intentions of the National Planning Policy Framework 2021.

The planning balance is therefore considered to be in against of the proposal.

The applicant has been given the opportunity to resite the proposal but has declined to take up this opportunity.

Conclusions

The proposal fails to achieve the aims of policies 2, 3, and 31B of the SELLP and paragraph 130 of the NPPF. Given the above considerations the recommendation is for delegated refusal.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity,

race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.