

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H02-0608-20	Applicant:	Mr & Mrs Clough
Proposal:	Outline permission for one residential dwelling		
Location:	Lawnwood 47 Plank Drove Crowland		
Terminal Date:	30th September 2020		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
22	Replacement Dwellings in the Countryside
23	The Reuse of Buildings in the Countryside for Residential Use
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

U]National Planning Policy Framework (NPPF), 2019

Section 2 - Achieving sustainable development

Section 4 - Decision-making

Section 5 - Delivering a sufficient supply of homes

Section 8 - Promoting healthy and safe communities

Section 9 - Promoting sustainable transport

Section 11 - Making effective use of land

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Section 15 - Conserving and enhancing the natural environment.

Planning Practice Guidance (PPG)

The Self-Build and Custom Housebuilding Act 2015 (as amended)

The Act (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

The Act also sets a 'duty to grant planning permission etc', specifically "...authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period."

To increase the number of planning permissions which are suitable for self-build and custom housebuilding, Councils are encouraged to work towards:

- developing policies in their Local Plan for self-build and custom housebuilding;
- using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;
- engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and
- working with custom build developers to maximise opportunities for self-build and custom housebuilding.

The Self-Build and Custom Housebuilding Regulations 2016

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Outline permission is sought for one residential dwelling, with all matters reserved, with an equivalent footprint to a garden store building approved under application H02/0006/15.

The applicant describes the development proposal as a self build residential dwelling and of 4+ bedrooms within the application.

The application is supported by a Planning Statement, which sets out, inter alia, that for the purposes of this application and the extent of the "red line" boundary, the land that has been separated from the approved domestic curtilage of the existing dwelling on the site comprises a residential garden area and is not used for agricultural purposes.

The applicant has also submitted various decisions in support of the application and these are discussed below.

Site Description

The application site is a side garden area of an existing dwelling.

The site was formerly part of an agricultural holding, that housed various agricultural buildings that have been removed.

The land is not considered to be previously developed land, and it is explained further below.

Although there are a very limited number of dwellings within the vicinity, the site is clearly outside the settlement boundary of Crowland and is located within the countryside.

History

H02/0616/15. S73A CONTINUATION. Extensions and internal alterations to house together with new external buildings - approved under H02-0006-15. Modification of Condition 6 to allow upvc windows in lieu of timber.. APPROVED 07-09-15.

H02-0333-15. CONDITION COMPLIANCE. Details of external materials, colour of render, design of windows and doors, rooflights, meter boxes, gas flues and soil vent pipes (Conditions 3, 4, 5, 7 and 8 of H02-0616-15). APPROVED. 14-09-15.

H02-0006-15. FULL. Extensions and internal alterations to house together with new external buildings. APPROVED. 05-03-15.

H02-0606-14. S73A CONTINUATION. Occupation of dwelling without complying with agricultural habitation clause (condition 1 of SR85/67). 11-09-14.

H02-0072-13. S73A CONTINUATION. Retention of dwelling without complying with agricultural habitation clause (Condition 2 of SR281-66 and Condition 1 of SR85-67). REFUSED 28-03-13.

85/67. Bungalow. APPROVED. 6.4.67.

281/66. Bungalow and vehicular access. APPROVED. 10.11.66.

Consultation Responses

Crowland Parish Council

Comments - The Parish Council have concerns about access and the use of the highway (currently a single track road) if further development happens down this road.

SHDC Housing Strategy

There are currently 63 households on the CSB register.

SHDC Environmental Protection

Records indicate that the site is within the immediate vicinity of a former landfill site.

However, there appears to be some doubt that the area was actually landfilled. With that in mind, suggest that land contamination could be dealt with via condition, rather than requiring information prior to determination. Therefore request that the full land contamination condition be applied at this location.

LCC Highway Service and Lead Flood Authority

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

Ask the applicant to submit further details on application of reserved matters demonstrating these improvements where the existing access serving the host dwelling shall be permanently closed and returned back to a frontage grass verge and the new shared access to be constructed in accordance with Lincolnshire County Council Specification. Additionally, the new shared access shall be as a minimum, no less than 4.1 metres wide for the first 10.0 metres for the safe provision of two way vehicle movements.

Suggest a condition that Within seven days of the new access being brought into use, the existing access onto Plank Drove shall be permanently closed in accordance with details to be agreed in writing with the Local Planning Authority. and informatives to deal with surface water flooding, new/amended vehicular access and works within the public highway.

North Level Internal Drainage Board

No objections.

Third parties

None received.

Planning Considerations

The key considerations in this instance are:

- Principle of Development
- Highway safety, access and parking
- Flood risk and drainage
- Residential amenity

Principle of Development

The Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The Council currently has 63 entries on its register, 61 of these being for individual plots and 2 for group schemes.

The application proposal is not intended to meet the needs of those individuals, as the applicant has stated that he intends to build out this development himself.

All housing sites within the Local Plan, could be utilised for self-build units, in full or in part, at the discretion of the landowner or developer if there was a sufficient demand. By the very nature that specific allocations within the Plan tend to be on larger scale sites, it is accepted that they will tend to attract more medium to large scale builders rather than self-builders, however that is only part of the Local Plan's allocations.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at paragraph 5.3.5 that "within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development **provided that the material considerations of the Local Plan and particular sites can be met**".

This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in a recent appeal decision (APP/A2525/W/18/3218958 - LPA ref H09-0250-18.Land Off Battlefields Lane North Holbeach), that despite giving the statutory requirement regarding self-build and custom-build significant weight, that the appeal site was not a suitable location for that type of housing. This demonstrates the above point in practice.

The application site is located outside of, and is removed from, settlement boundary of Crowland as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). It is therefore located within the Countryside in planning policy terms.

Policy 1 of the SELLP sets out the spatial strategy for development within the District for the plan period, and clarifies that in the *Countryside development will be permitted that 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.*

The SELLP clarifies that there are types of development that require a Countryside location either because it is the location of an existing building or use of land. Housing needs may, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing needs of a settlement (Policy 19: Rural Exceptions Sites). However this proposal is not being justified by reason of these policies and so for the purposes of this report, can be set aside, as the development is proposed to be open market housing, albeit for self-build owner/occupiers in the first instance.

Policy 10 of the SELLP sets out the expectation for housing delivery over the plan period.

Policy 11 of the SELLP sets out a hierarchy of settlements for housing development and the SELLP acknowledges that incremental growth in housing supply will come about through infill and 'speculative' applications both within the settlements identified in Policy 11 and also within the Other Service Centres and Settlements.

In looking at the distribution of housing within the District, the SELLP sets out at 5.3.5 that *It is acknowledged that incremental growth in housing supply will also come about through infill and 'speculative' applications both within the settlements identified in Policy 11 and also within the Other Service Centres and Settlements. Policy 1: Spatial Strategy is the main supporting policy through which to assess infill development opportunities (with reference to the relevant Inset Map). Within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met. Housing need may also be met through Policy 19: Rural Exception Sites, where appropriate.*

Policy 17: Providing a Mix of Housing sets out that the provision of new houses will seek to meet the long term needs of the Plan area in order to maintain and provide mixed, inclusive and sustainable communities.

Policy 17 also sets out that *The Local Plan will also seek to meet the housing needs of non travelling Gypsy and Traveller households and also custom and self builders as they may come forward.*

Open market housing, which this self-build housing would be considered to be, is not a development type that requires a countryside location. This is particularly the case in this instance where the Council has a recently adopted development plan with a spatial strategy setting out how

the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (9.1 years as at 31st March 2020).

Paragraph 79 of the National Planning Policy Framework, 2019 (NPPF) sets out that:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
- e) the design is of exceptional quality, in that it:*
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that the development of a self build home is necessary to this location. In terms of the 3 dimensions of sustainable development, the following has been considered:

- An economic role:

The development may give limited support to the local economy through employment opportunities associated with some elements of construction and fitting out, and future occupants may work locally and support local services.

- A social role:

The proposal would make a contribution, albeit small, towards housing supply in the District (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings). However, the site is some distance from the nearest local services and facilities within Crowland.

- An environmental role:

The application site is remote from Crowland. The cluster of development within which this dwelling would be located is clearly physically separated from the settlement of Crowland, with no link to the settlement. Plank Drove is narrow and is not well lit. The proposal would not, in reality, encourage pedestrian use to and from the site. Future occupiers would be likely to have a high dependence on the use of motor vehicles to access local services. This would increase carbon emissions, contrary to the requirements of the environmental role of planning. It would also be contrary to one of the core planning principles of the NPPF.

The proposal is clearly detached from the village boundary as shown on the SELLP Policy map. On that basis it must be considered as development within the Countryside. Against that consideration it does not demonstrate that it is necessary to be in this location or that it meets the sustainable development needs of the area. On this basis the proposal is contrary to the Development Plan.

If permitted, the proposal would also encourage further applications of a similar nature in the open countryside which would then be hard to resist, contrary to the objectives of the Framework to pursue sustainable development and the aim to protect the character of the countryside.

The applicant puts forward the case that the definition of 'Previously Developed Land' within the NPPF 2019 applies to this site as it is "designated as residential land".

Officers disagree with this assessment and consider that the land is the side garden of a dwelling in the countryside, and as such is not previously developed land, nor is the land "designated" as residential land. In addition, when granted consent under ref H02-0006-15, the garden building this application is suggested to replace was controlled by condition to preclude separate residential or business uses due to its location.

Highway safety, access and parking

The matter of access to wider services is discussed above.

Although the Parish Council has raised the single track nature of Plank Drove, the LCC Highway Service has not raised objection to this development, and suggested conditions.

It is on this basis that officers have taken the view that the development would not impact detrimentally on highway safety on Plank Drove.

Appendix 6 of the SELLP sets out minimum vehicle parking standards for residential developments and requires that at least 2 parking spaces are provided within the curtilage for dwellings with 3 or more bedrooms and that 3 parking spaces are provided within the curtilage for dwellings with 4 or more bedrooms. Given the size of the site, this should be achievable.

Flood Risk and Drainage

Flood Zone 1, which represents the lowest probability of a flood risk event occurring. A very small part of the site is located within Flood Zone 2, this is not considered to pose a flood risk to the occupants of the proposal.

Taking the above into account, there is not considered to be any conflict with Policies 2, 3 and 4 of the Local Plan at this stage.

Residential amenity

This application is outline with matters of design reserved, and the consideration of the residential amenity of the adjoining dwelling would be considered at that time.

The proposal therefore complies with Policy 3 of the Local Plan in this regard.

Other Matters

The applicant has cited various decisions to support this outline application. However, each scheme and decision is determined on its merits, and having considered each decision cited, specifically:

H02-0669-19. Land north of Crowland Garden Centre, James Road, Crowland. Outline application for the erection of up to 6 self build eco-homes with access from James Road. Approved with a S106 legal agreement. 03 April 2020.

Features - Site is approximately 1.58 hectares in size and is in agricultural use. The Design Code, submitted with the application. A pedestrian access is shown linking to an existing footpath that travels through adjoining land and then on to Postland Road.

Contrary to officers' recommendations, the Planning Committee felt that the social and economic benefits of delivering a small number of eco self build/custom-build properties in this location outweighed the policy requirements of the South East Lincolnshire Local Plan, and consequently, the presumption in favour of sustainable development was considered to apply in this instance. With regard to the issue in relation to flood risk, the site could be made safe through the use of appropriate mitigation measures

Appeal ref APP/G2435/W/18/3214451. Land off Hepworth Road, Woodville, Swadlincote. 30 self build plots (outline - access and layout included) . Appeal Upheld. 25 Jun 2019.

Features - Site bounded to the north and west by the recently constructed residential development. Site is located outside the Limits to Development as defined in the adopted Local Plan. A new vehicular and pedestrian access would be provided to the site from Hepworth Road. In addition, several new pedestrian and cycle links would be created between the appeal site and the adjoining housing developments. The Design Code, submitted with the application.

Development of the appeal site would not extend beyond the southern confines of the existing built form of Woodville and would be considerably set in from the eastern boundary of Woodville's developed footprint along Hepworth Road.

Features - Braintree District Council, appealed against the order of Lang J., dated 15 November 2017, dismissing its application under section 288 of the Town and Country Planning Act 1990 challenging the decision of an inspector appointed by the first respondent, the Secretary of State for Communities and Local Government, allowing appeals by the second and third respondents, Greyread Ltd. and Granville Developments, respectively under section 174 and section 78 of the 1990 Act. Granville's section 78 appeal was against the council's refusal, on 13 April 2016, of an application for planning permission for the erection of two detached single-storey dwellings on the sites of two agricultural buildings with landscaping on land to the east of Lower Green Road, Blackmore End, Wethersfield in Essex.

The site is in the village of Blackmore End, but was outside the settlement boundary defined in the then emerging development plan.

The Council's challenge to the decision was on a single ground, which was that the inspector had misunderstood and therefore misapplied the policy in paragraph 55 of the NPPF. That argument, rejected by Lang J., is now pursued in this court. The crucial issue is the meaning of the word "isolated" in the expression "new isolated homes in the countryside"

It is considered by officers that each of these decisions is materially different to the scheme the subject of this application. This current application is to be considered on its merits.

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.

Conclusion

It is clearly the requirement of a plan led system, as set out in statute and guidance, that decisions should be made 'in accordance with the Development Plan unless material considerations indicate otherwise'. In this case there are considered to be no material considerations that are so significant as to outweigh the primacy of the Development Plan and the damage that would be caused to undermining it with non policy compliant proposals.

The recommendation is therefore to refuse the application for the following reason:

The application site is located outside of the settlement boundary of Crowland. The site, by virtue of its location, is poorly related to the existing built-up residential area of Crowland as outlined in the South East Lincolnshire Local Plan (SELLP, March 2019). The site is physically and functionally detached from Crowland, its settlement boundary, and is located in the open countryside. As per Policy 1 of the SELLP it is classed as being in the 'Countryside' in planning policy terms.

As a consequence, future occupiers would be likely to have a high dependence on the use of motor vehicles, which would increase carbon emissions. Residential development in this location is, therefore, considered to be inappropriate and would result in harm in relation to the social and environmental objectives enshrined in Paragraph 8 of the National Planning Policy Framework (NPPF, 2019). Given the location of the site the proposal is in conflict with the spatial strategy outlined in Policy 1 of the SELLP, as well as Policies 10, 11 and 17 of the SELLP, which underpin the delivery of housing within defined settlements. The proposal also does not comply with any of the exceptions for new dwellings in the countryside defined under Policies 19, 20, 22 or 23 of the SELLP.

Policy 1 states that development in the Countryside will only be "permitted that 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".

It is accepted that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area, and that there is demand for such plots in the area. However, it is not considered that open market housing, which self-build housing is considered to be, is a type of development that requires a countryside location. This is particularly the case in this instance where the Council has a recently adopted development plan with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (9.1 years as at 31st March 2020).

Furthermore, although the proposal would make a small contribution towards housing supply (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings) and the economy in the District, these factors are outweighed by the harm that the proposal would cause in terms of its environmental effects.

For the reasons outlined above the proposal is considered to be in conflict with the SELLP, as well as the intentions of the NPPF 2019. Paragraph 12 of the NPPF reiterates that the development plan is the starting point for decision making and that where a proposal conflicts with an up-to-date development plan it should not usually be granted. There are not considered to be material planning considerations that would outweigh the harm identified in this particular case which would indicate that the plan should not be followed.