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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H02-0671-22 **Date of Decision:** 6th October 2022

Applicant: Mr L Johnson
68 Lilac Road
Peterborough
PE1 4PR

Location: 26 West Bank Crowland

Description: Demolition of existing garage and erection of new dwelling - re-submission of H02-0574-21 (retrospective)

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 Whilst the application site is located in Environment Agency Flood Zone 1 and would therefore appear to be within an area of low flood risk, the site also falls within an area identified in the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) as being at increased flood risk in the future, in case of a breach in the tidal defences. The SFRA mapping shows that the sites lies within a "Danger for Most" hazard zone, with potential flood depths of up to 1m (based on the Residual Peak Depth - 1% Fluvial/0.5% Tidal scenario for 2115).

The Standing Advice Matrix which supports the SFRA requires that properties in the "Danger for Most" hazard zone, with potential flood depths of up to 1m, have finished floor levels a minimum of 1m above ground level, with flood resilient construction to a height of 300mm above the predicted flood depth.

The application form states that the finished floor levels for the dwelling as built are 750mm above ground level (originally stated to be 650mm by the Applicant), which is clearly contrary to the above advice.

A site-specific Flood Risk Assessment (FRA) has been provided in support of the application. Policy 4 of the South East Lincolnshire Local Plan (2019) requires a site-specific FRA to:
"- identify the relevant predicted flood risk (breach/overtopping) level, and mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source;
- propose appropriate flood resistance and resilience measures (following the guidance outlined in the Strategic Flood Risk Assessment), maximising the use of passive resistance measures (measures that do not require human intervention to be deployed), to ensure the development maintains an appropriate level of safety for its lifetime"

The submitted FRA concludes that finished floor levels of 500mm above ground level would be acceptable. However, this level of mitigation is based on incorrect flood depths for the site and is therefore inappropriate. The Applicant has not been invited to submit a revised FRA to overcome the above mentioned incorrect mitigation measures for the site. This is because the EA maintain an objection to the proposal as built i.e. any such FRA would not overcome their objection.

Consequently, the Environment Agency have objected to the application, with their objection being based upon Policy 4 of the Local Plan and conflict with the SFRA Standing Advice Matrix.

Overall, it is not considered that the dwelling would be guaranteed to be safe for its lifetime as built and the retention of the dwelling with lower floor levels than required would go against the principle of ensuring an appropriate level of safety. On this basis, the flood risk exception test cannot be passed. It is therefore contrary to Policy 4 of the Local Plan and advice within Section 12 of the National Planning Policy Framework (2021) relating to the siting of development in areas at risk of flooding.

2 The dwelling as built is visually out of keeping with other properties on The Willows by virtue of the brick type and windows / doors used, which represent a contrast to the lighter buff brick and white windows / doors on the remainder of the cul-de-sac. The materials used have a material adverse impact on the character / street scene of The Willows.

The dwelling that is the subject of this application does not therefore accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019). Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: quality of design; impact on character and appearance of the area; and the relationship to existing development. Policy 3 requires development proposals to respect the character of the location. It is also contrary to Paragraph 130 of the National Planning Policy Framework (2021) which states that planning decisions should ensure that developments are sympathetic to local character and add to the overall quality of the area.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public

consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

The determined plans are:

Application Form
2069:2
2069:3
2069:4
4144/110
Flood Risk Assessment (prepared by Barter Hill Partnership Limited, dated 15th August 2022)
Archaeological Monitoring & Recording (prepared by Neville Hall, dated October 2021)



Phil Norman
Head of Planning
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.