DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H03-0592-23**	**Applicant:**	**Mr & Mrs M Forth**
Proposal:	Proposed replacement dwelling and garages		
Location:	Norfolk House South Drove Pode Hole		
Terminal Date:	29th August 2023		

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
22	Replacement Dwellings in the Countryside
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 9 - Promoting sustainable transport
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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL				

	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal is for a replacement dwelling at Norfolk House, South Drove. The proposed dwelling comprises a four-bedroom house, with a detached double garage to the north. No changes to the existing access are proposed.

It is proposed that the dwelling would be a T shape, with the roof design incorporating two joined, dual-pitched roofs. It is proposed that the dwelling would measure (at its extreme) 11.3m (width) by 13.4m (depth).

The garage will be located 15m to the north of the dwelling, adjacent to the existing leylandii. The garage will measure 10.6m by 7m. The garage will incorporate a dual pitched roof, measuring approximately 5.8m to the peak. To the eaves the garage would measure approximately 2.8m.

It is proposed that the dwelling and garage would be built from red brick, with a slate roof. The window frames and doors will be UPVC.

It is proposed that the existing disused agricultural buildings to the rear will be demolished as part of this proposal.

It should be noted that the dwelling immediately to the north has benefited from planning permission under H03-0445-21. This application was also for a replacement dwelling, exceeding 40% of the original dwelling size.

Site Description

The site is outside any of the settlement boundaries outlined within the South-East Lincolnshire Local Plan, 2019 (SELLP). The site is located 1.6km south of the settlement boundaries of Spalding and 1.9km west of Cowbit.

The site is relatively isolated; however, comprises one of three dwellings in a 100m radius. Significant boundary treatments are present in the form of leylandii to the north and south, demarcating the sizeable plot.

The existing dwelling is constructed of a dull, brown brick, with limited red brick used vertically between windows. The dwelling is fairly simple in design and is comparable to nearby developments in terms of materials and design.

Relevant History

No relevant history.

Consultation Responses

Environmental Protection

24/07 - Request the applicant complete a screening assessment form for this location prior determination

10/08 - Request a precautionary contaminated land condition be applied at this location.

Deeping St Nicholas Parish Council

The Parish Council sees no reasons to object to this application and believes it will improve the current site.

Welland and Deepings Internal Drainage Board

No comment

Highway and Lead Local Flood Authority

"No objection. The proposal is for a replacement dwelling and garages and it does not have an impact on the Public Highway or Surface Water Flood Risk. Vehicles will utilise the existing access from South Drove which serves the current use and has sufficient visibility and adequate provision for car parking and turning space has been provided within the limits of the site to enable vehicles to enter and leave in a forward gear and therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application."

Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2021 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site lies outside of the defined settlement boundaries as defined by Policy 1 and is therefore considered, in policy terms, to lie within the open countryside. Development within the countryside is restricted, under Policy 1 of the SELLP to that which "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". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle and be at conflict with Policy 1.

Notwithstanding this, the application is for a replacement dwelling with no overall increase in the number of dwellings on site, or within its countryside location, ensuring a net increase in units would not be created in an unsustainable location.

Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan

area. However, with reference to custom and self-builds it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions.

Open market housing, which this self-build house would be considered to be, is not a development type that specifically requires a countryside location. This is particularly the case in this instance where the Council has a development plan that has been relatively recently adopted, 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 (5.9 years on 31 March 2022); as such, whilst windfall sites would contribute to the housing provision, there is no direct need for unsuitable development or development within the open countryside that conflicts with Local Plan policies.

The supporting text to Policy 1 states that "housing needs may also, 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 settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The application site comprises land that is currently residential, comprising a single residential dwelling that would be replaced as a result of the proposed development.

Notwithstanding the above, the relevant policies of the Local Plan should be read as a whole and as such, the provisions of Policy 22 (Replacement Dwellings in the Countryside) must also be considered and can be viewed as being an example where development could be acceptable and justified within the open countryside, 'by exception'.

As referenced above, Policy 22 sets out instances and criteria where replacement dwellings within the open countryside could be acceptable. This policy expresses that "proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that" the criteria detailed is met. In response to the criteria, the following is observed:

1)While the dwelling has been vacant since 2022, it is not considered that the residential use has been abandoned. Case law and precedent has established the requirements for a building to be considered abandoned in planning terms and it is considered that, in this instance, the site meets none of these requirements.
2)The original dwelling is permanent, and while it has fallen into a state of disrepair, it is not derelict. The damp and subsidence described within the design and access statement may make the dwelling unideal for habitation but does not make the house derelict.
3)The existing building is of no notable architectural or historical merit.
4)The replacement dwelling is considered to be of a higher architectural quality than the existing dwelling. While general types of materials have been given within this application, the exact materials of construction will be assessed by condition.
5)The replacement dwelling will occupy a similar footprint to the existing dwelling, with the majority of variation coming as a result of the enlargement of design. The southern wall of the new dwelling would sit 2.5m north of its original counterpart. This is considered a minor alteration in siting, and therefore, is not considered to comprise a significant conflict. Whilst a minor conflict may be caused in this respect, this is not considered to be significant impact as to warrant its refusal against policy 22 in this case.
6)The replacement dwelling would exceed 40% of the original dwelling. The existing dwelling measures approximately 124 metres squared, with the proposed dwelling measuring approximately 236 metres squared (an approximate 90% increase). Therefore, the proposal would comprise a conflict with criterion 6 of Policy 22.

The development, when viewed against Policy 22 as a whole, largely conforms with the criterion; however, the proposal does conflict with the policy by way of a minor conflict with criteria 5 and a conflict with criteria 6, in that the siting is partially altered and the replacement dwelling proposed would comprise a 90% increase.

Notwithstanding this, whilst a conflict does exist, it is also noted that the proposal comprises a high quality development that provides a betterment from an architectural and visual standpoint. Furthermore, it is considered that the new dwelling would be able to achieve a higher standard of energy efficiency and construction than the existing building. Finally, when the size of the existing dwelling with potential permitted development extensions are considered, the proposal represents a 10% increase in size. While the increase in size does greatly exceed the 40% limit, it is considered that the quality of design coupled with the improvements to the quality of construction ensures the proposal is acceptable on balance.

As such, whilst a minor conflict exists with the criteria of Policy 22 and as such the development does not accord with the policy in its entirety, it is considered that when taking account of the aforementioned benefits of the proposal in the form of its architectural, visual and efficiency betterments, the proposal is considered to be acceptable on balance.

Therefore, whilst the proposal is considered to be at conflict with Policy 1 and 22 of the South East Lincolnshire Local Plan, by virtue of its failure to comply with the entirety of the criteria outlined, the development comprises a replacement dwelling, of which would provide an improved built form in respect of its architectural and visual merits. As such, on balance, the principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (2021) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, that they are visually attractive, as a result of good architecture, and are sympathetic to local character.

Likewise, Policy 2 of the SELLP, states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Furthermore, policy 3 accords with the provisions of section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The scale of development, while greater than the existing dwelling, can easily be accommodated by the sizeable plot. The scale of the dwelling would still be comparable to those located immediately to the north, ensuring the development does not appear incongruous. The height of the dwelling would still be masked by the existing boundary treatments. Therefore, the scale of development is acceptable and would not cause an impact to the character and appearance of the area.

While red bricks are not currently seen in the immediate area, the material is still typical of the wider region. As such, their use here would not appear out of character. The use of slate and UPVC is already present on the site and its nearby counterparts. The proposed materials are therefore considered acceptable.

It is considered that the general design of the property would be in keeping with the established built form, both along South Drove and in the wider district. The "T" shaped structure is typical of new and old developments in the area, with the fluidity of roof design further ensuring the dwelling does not appear incongruous.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impacts Upon Resident Amenity

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

There will be a distance of approximately 40m between the new dwelling and the existing dwelling to the north, and a 25m distance between the garage and the northern dwelling. This represents a significant enough distance to ensure that no overshadowing occurs on the property to the north.

The lack of overshadowing is further cemented via the presence of sizeable boundary treatment. Leylandii standing at over 3m is present on the northern and southern boundaries, obscuring the garage and house from view. These boundary treatments will also ensure that no overlooking will occur as a result of the development.

Despite the increase in the size of the dwelling, it is not considered that there would be a significant increase in noise pollution as a result of this proposal.

Therefore, the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. It is considered that the proposal conforms to Policies 2 and 3 of the South East Lincolnshire local Plan as well as Section 12 of the National Planning Policy Framework in terms of residential amenity.

Flood Risk and Drainage

The NPPF requires the application of the Sequential Test to steer new development to areas with the lowest probability of flooding. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in an area with lower probability of flooding, the Exceptions Test can be applied if appropriate.

The South-East Lincolnshire Strategic Flood Risk Assessment, March 2017 (SFRA) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology, it is possible to use the information to steer development towards the areas of lower flood risks as advised within Section 14 of the NPPF.

The site is located within Environment Agency Flood Zone 3 and the SFRA shows that the site falls within a 'danger for some' hazard zone, with predicted flood depths of up to 0.5 metre on the proposed dwelling footprint and 1 metre on land to the rear.

The site is for a replacement dwelling, which cannot be accommodated elsewhere in the district. As such, one could argue that, should the site be acceptable in all regards, and if the Exceptions Test is successfully passed, that the site is acceptable in flood risk terms, notwithstanding the fact that there are sequentially preferable allocated sites in the adopted Local Plan.

In order for the Exceptions Test to be passed, it must be demonstrated that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall. With regard to the above, the development would provide some wider sustainability benefits to the community through a contribution (albeit small) towards housing supply, and other benefits including generating employment during the construction period and by providing a modern family home for the existing residents of the site.

The submitted flood risk assessment recommends that finished floor levels of the proposed house should be at a minimum level of 2.4m ODN (which is approximately 600mm above the average ground level on site). Taking into account the predicted flood depths previously identified, this should ensure that the development is safe for its lifetime. No bedrooms are proposed on the ground floors, further ensuring the safety of future occupants.

It is proposed that surface water will be drained via soakaways. While the details of this drainage system have not been submitted, it is considered that there should be ample room within the site to adequately drain surface water. It is also considered that the increase in dwelling size is not great enough as to create a significant increase in surface water runoff.

The proposal therefore conforms to Policy 4 of the South East Lincolnshire Local Plan and Section 14 of the National Planning Policy Framework in terms of drainage and flood risk.

Pollution

Policy 30 of the SELLP and Section 15 of the NPPF relate to pollution. A screening assessment was requested by the Environmental Protection department. Following receipt of this assessment, a condition for the submission of a contaminated land scheme was requested. It is considered that there is no significant reason to prevent the imposing this condition. This condition is in line with the requirements of Section 15 of the National Planning policy Framework.

Parking and Highway Safety

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting Sustainable Transport'. Paragraph 111 of the National Planning Policy Framework (2021) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Policy 36 and Appendix 6 set the requirements for car parking on new developments. Three spaces are required for four-bedroom dwellings. The site can comfortably accommodate this level of parking, while providing additional space for any potential guests. As such, the proposal conforms to Policy 36 and Appendix 6 of the SELLP.

No new access will be created and the proposal would not give rise to a significant increase in vehicular traffic, with the resultant development replacing an existing dwelling with a replacement dwelling. The relevant consultee from the Local Highway Authority has raised no objections. As such, it is considered that the proposal would not have a significant negative impact on the existing highway network.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Planning Balance

The proposal seeks permission for a replacement dwelling within an open countryside location. When assessed against the specific criteria of Policy 22, the development is at conflict with this policy of the South East Lincolnshire Local Plan and therefore constitutes a form of development within an open countryside setting that would typically be resisted in an unsustainable location. However, other material considerations must be considered.

The proposal would enhance the visuals of the site, through improved architectural details and an enhanced scale of development more suitable for the plot size. The isolated nature of the development, coupled with the large boundary treatments present would prevent any amenity impacts.

The proposal fully conforms with criteria 1-5 of Policy 22. The proposal does exceed the 40% increase limit set within criterion 6 and as such, is at conflict with policy 22 when viewed specifically. However, when viewed as a whole, the aforementioned enhancement and betterment in respect of the character and appearance of the area, coupled with the specific betterment of the architectural quality of the built form itself, would therefore, in this instance, ensure that the minor conflicts with Policy 22 would be somewhat outweighed in this instance, with the overall development considered to be acceptable.

Therefore, the proposal would represent a visual enhancement of the site, while also improving the levels of energy efficiency of the dwelling.

As such, it is considered that the proposal conforms with a large majority of the development plan when viewed as a whole, although a minor conflict is apparent. While the proposal does exceed the

40% size increase limit of Policy 22 and as such, a conflict exists with this policy and policy 1, it is considered that the betterment and overall benefit of the development in terms of its high level of design would result in the planning balance being in favour of the proposal, given the nature of the conflicts.

Conclusion

The proposal is considered to be acceptable when considered on balance and in view of policies 1, 2, 3, 4, 22, 30, 36 and Appendix 6 of the South East Lincolnshire Local Plan, as well as Sections 2, 9, 12, 14 and 15 of the National Planning policy Framework.

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.

Recommendation

The recommendation is that the proposal be approved under delegated authority.