DECISION DELEGATED TO HEAD OF PLANNING

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|---|---|---|---|
| **Application No:** | **H04-0486-24** | **Applicant:** | **Mr T Hart** |
| **Proposal:** | Proposed Dwelling (in place of approved H04-0628-23 conversion of existing building) | | |
| **Location:** | Land Adjacent To 60 Northorpe Road Donington Spalding | | |
| **Terminal Date:** | 23rd August 2024 | | |

## 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 |
| 11 | Distribution of New Housing |
| 17 | Providing a Mix of Housing |
| 19 | Rural Exception Sites |
| 22 | Replacement Dwellings in the Countryside |
| 23 | The Reuse of Buildings in the Countryside for Residential Use |
| 28 | The Natural Environment |
| 31 | Climate Change and Renewable and Low Carbon Energy |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2023**

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed & beautiful 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 | 0 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 0 |

| | | | | |
|---|---|---|---|---|
| ENVIRONMENT AGENCY | 0 | 0 | 0 | 1 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SHDC INTERNAL | 0 | 0 | 0 | 1 |
| OTHER STATUTORY BODIES | 1 | 0 | 0 | 1 |

CASE OFFICER ASSESSMENT

**Proposal**

This is a full planning application for the erection of a dwelling. The proposed dwelling is located on Northorpe Road, the proposal is for a detached 3-bed dwelling built across 2 floors. The dwelling is dual pitched with gable ends located on the side, a single storey element which hosts a utility room is also shown on plan.

Access would be taken from Northorpe Road with parking and turning shown to the front/side of the dwelling and a more private amenity to the rear. The site plan shows that boundaries are likely to be hedged. The application form contains a schedule of materials which include, red facing brick, concrete pantile and white UPVC windows and doors

**Site Description**

The application site lies to the southern side of Northorpe Road, within Donington. The site comprises an agricultural building, sizeable in scale, with associated enclosed land to the rear. This has an extant permission (see planning history) to be converted into a dwelling.

Adjacent the site, to the northern side of Northorpe Road lies residential dwellings, with further properties also neighbouring the site to the west. Open land lies immediately to the east of the site.

The application site is located outside of the development boundary for Donington and in policy terms located within the open countryside. The application site is located within flood zone 1 in accordance with EA Maps for planning.

**History**

H04-0616-08 - Change of use to B1 Use Class (Office/Light Industrial) - Approved on 16-07-2008

H04-0912-16 - Residential development on land between: 54-60 Northorpe Road, Donington - Refused on 01-12-016

H04-0628-23 - Conversion of agricultural building into dwelling. Approved 05-09-23

**Consultation Responses**

Environment Agency

The Environment Agency does not wish to make any comments on this application. It does not appear to fit any of the criteria on our consultation checklist, 'When to consult the Environment Agency'.

Highways & Suds

No objection - This proposal is for Dwelling (in place of approved H04-0628-23 conversion of existing building) and it does not have an impact on the Public Highway or Surface Water Flood Risk. Vehicles will utilise the existing access from Northorpe Road which serves the current use and has sufficient visibility, 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. Therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety. That said, the existing vehicle access is only appropriate for the previous use as it is just an unbound gravel material and therefore it will need to be made up to the County Councils specification within the extent of the public highway appropriate for it's proposed residential use. It should also be noted that there potentially could be encroachment of highway land with the existing fence to the sites frontage on the Eastern side and should be removed upon title to land checks, as this is integral to the visibility of vehicular movements along Northorpe Road at this location

Lincs Bat Group

We note in the Design and Access Statement it claims to be creating 'significant improvements in biodiversity'. However there appears to be no indication of how they propose to do this.

Environmental Protection
As in the previously approved plans of H04-0628-23, I request a precautionary land contamination be applied at this location.

Historic Places Team

Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application

## Evaluation

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.
Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

## Planning Considerations

The application site already benefits from a residential planning permission to allow for the conversion of an existing barn on site. The following issues are relevant to this assessment:

- Principle of Development
- Character, Design and Landscaping
- Residential Amenity
- Flood Risk
- Highway Safety
- Land Contamination
- Ecology/BNG

## Principle of Development

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework 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 in respect of sustainable development 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.

Part D of SELLP Policy 1 sets out permitted development types within the open countryside. It states that *The rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside. 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.*

Within the reasoned justification (under para. 3.2.17) housing exception in the countryside are listed, the paragraph 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 needs of a settlement (see Policy 19: Rural Exceptions Sites).*

The proposal does not appear to meet with any of the exceptions for dwelling in the countryside and so the proposal is contrary to the aims of SELLP Policy 1.

*Material Considerations*

NPPF Paragraph 12 is relevant, it states that "The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed." NPPF Paragraph 47 reaffirms this by stating:

*Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.*

Permission for the conversion of the barn on site was achieved under application H04-0628-23. The red line boundary associated with this approval however was much smaller. This application now seeks to extend that boundary to widen the associated amenity area along with repositioning and increasing the footprint of the proposed dwelling on site (the barn is located close to the boundary and of a slightly smaller footprint). Notwithstanding this much of the site does benefit from a permission to form a residential planning unit.

*Betterment*

Mansell vs Tonbridge and Malling Borough Council (2017) established that where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan, insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the Local Authority. Where the alternative new-build proposal offers either

an enhancement to the setting or a reduction in density when compared to the fallback, the development could (and perhaps should) be allowed to proceed. In this case, the existing building on the site has a Class Q consent for change of use to form a dwelling. It is considered that the granting of the Class Q demonstrates the applicant has a "real prospect" and clear desire to develop and maximise the value of the site.

It is therefore considered that the general principle of residential development is already established across much of the site. The extension to the red line boundary that was previously allowed is shown to be taken up by amenity space, conditions will also require the submission of a landscaping scheme that would increase the biodiversity and soften the site, on this basis it is considered that the extant permission is sufficiently material to warrant a departure from SELLP Policy 1. The case for betterment is discussed within the remainder of this report.

## Character, Design and Landscaping

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. Policy 2 point 1 states that proposals should meet with sustainable development considerations specifically in relation to size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it 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"

The proposal is for a detached two storey dwelling, made up of red facing brick and concrete tiles. The proposal in terms of scale and massing is commensurate with both the plot as well as other dwellings in the immediate area. The proposed palate of materials are described within the application form, whilst they may well be acceptable the description is broad and would allow for a wide range of external finishes, given the sites countryside location it is considered that a condition will be attached to protect the character of the area and a more specific palate of materials will need to be agreed.

In terms of boundaries the plan shows 'hedging' and this is acceptable. However given the countryside location of the application site the erection of any poorly designed fencing (other than the hedging) may well impact negatively upon character. Therefore, a condition that would prevent the erection of fencing without first havening written agreement from the LPA will be attached.

On this basis and subject to the aforementioned mitigation it is considered that the proposal would accord with SELLP Policies 2 and 3.

## Residential Amenity

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.
Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The dwelling is sited at a sufficient separation distance not to give rise to unacceptable impacts in relation to overshadowing or overbearing upon neighbouring properties. Furthermore, all openings are location in appropriate positions and would not give rise to unacceptable levels of visual intrusion. The two first floor side openings look across onto an open field.

On this basis it is considered that the proposal would meet with SELLP Policies 2 and 30.

## Flood Risk

SELLP Policy 4 sets out the districts approach to flood risk. The application site is located is within Flood Zone 1 in accordance with EA Mapping systems.  The South East Lincolnshire SFRA shows the area in a low hazard.

The application site is therefore in a preferable place in terms of flood risk and in principle terms is

considered acceptable. In terms of drainage the applicant has confirmed within the application form that surface water will be disposed via soakaway, this will require building regulations to be met and so controlled outside of planning. Should percolation tests not prove favourable then the applicant may well be subject to other consenting regimes all of which are mitigated outside of planning. In terms of foul disposal, the applicant states that this will be directed toward a foul sewer, this again sits out side of planning and is mitigated by consenting.

On this basis it is not considered that drainage related conditions are required. The proposal is considered to meet with SELLP Policy 4.

### Highway Safety

SELLP 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.

SELLP 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.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The applicant shows an access/egress to the front of the site on Northorpe Road, off-street parking provision is also demonstrated. Highways have been consulted and have no objection subject to informative stating that the connection to the adopted road requires formal written consent with the highways authority. No concerns are expressed in terms of highway safety or parking that would warrant the refusal of this application.

On this basis then the proposal would accord with SELLP Policies 2, 3 & 36.

### Land Contamination

SELLP Policy 30, it states *Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon land quality and condition*

Environmental Protection have requested that an informative is attached that would require any unforeseen contamination to be reported to the LPA along with a remediation statement.

### BNG & Ecology

SELLP Policy 28 is concerned with the Natural Environment points 2 and 3 are relevant to this assessment, point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

The applicant has not provided a preliminary ecological appraisal however conversion of the barn on site is already allowed without any such information/conditionality. This issue has therefore been previously addressed.

In terms of BNG the applicant states that the site is exempt through the di minis exemption. The LPA are in agreement with this position. However, as the proposal involves an extension to the residential unit previously approved a condition requiring the submission of a landscaping scheme is considered appropriate, this is likely to lead to and improve the net BNG across the site.

On this basis the proposal would accord with SELLP Policy 28.

### Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the

adopted Development Plan, unless material considerations indicate otherwise.

The proposal whilst contrary to the aims of SELLP 1 has an extant planning permission to erect a dwelling on the site. This is sufficiently material to support a departure from the plan.

Furthermore this proposal is considered to represent betterment as it relates better to the built form typologies along Northopre Road. It also represents betterment for future residents in drawing the dwelling away from the boundary. Therefore on these terms the proposal is acceptable.

In this instance then, there are material considerations that weigh in favour of the proposal and as such, the planning balance is in support of the development.

## Conclusion

Taking into consideration these factors, the proposal is considered to represent betterment over what has been previously approved on site. The proposal would comply with Policies 2, 3, 4, 30 and 36, along with Appendix 6, of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). On this basis the proposal is recommended for approval

## 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.