

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H05-0318-19 **Applicant:** Mr Jonathan Bingham
Proposal: Proposed replacement dwelling
Location: Site Adjacent: Greenways Frostley Gate Holbeach
Terminal Date: 17th May 2019

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
29	The Historic Environment
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 5, 17, 12, 14 and 16

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

OTHER STATUTORY BODIES	0	0	0	1
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CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for a replacement dwelling plus garage/workshop/store and domestic office attached to the main dwelling by means of a glazed walkway. An existing bungalow would be demolished.

Site Description

The site is currently agricultural land adjoining an existing farm yard immediately to the north. The latter includes a number of agricultural buildings and also a bungalow at the rear. A replacement dwelling is situated almost opposite.

Policies/Constraints

Site outside a settlement limit as defined in the South East Lincolnshire Local Plan, 2019

Site within an area of no hazard within the SHDC Strategic Flood Risk Assessment.

Representations

LCC Highways/SUDs - Does not wish to restrict the grant of permission.

Environmental Protection - No objections.

South Holland Internal Drainage Board - Request drainage strategy.

LCC Archaeology - No impact.

Public - No objections received.

Previous Decisions

EE152/50 - Dwelling - Permitted subject to agricultural occupancy clause.

Material Considerations

The main issue in this case is whether the proposal is in accordance with development plan policy.

As indicated in paragraph 47 of the National Planning Policy Framework, 2018, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

Policy 22 of the South East Lincolnshire Local Plan, 2019 indicates that proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that:

1. the residential use of the building to be replaced (the original building) has not been abandoned;
2. the original building is permanent, has not become derelict and is not the result of a temporary permission;
3. the original building is not of architectural or historic merit and is not capable of repair;
4. the replacement building is of a high standard in terms of architectural detailing and materials of construction;
5. the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the

character and appearance of the site and its locality; and

6. the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency.

Addressing the above, the residential use of the existing bungalow has not been abandoned. However, the property, which was constructed in 1950 and has a degree of permanence, is not of significant architectural or historic merit. Moreover, it falls well below current levels of build quality and energy conservation. It has essentially outlived its useful life.

The replacement dwelling is on a different footprint. However, its new position is considered to be more reflective of and in character with existing residential development along Frostley Gate, which generally fronts the highway. The present bungalow is set further back in an incongruous location within the farmyard.

The footprint of the replacement dwelling exceeds that of the original dwelling by more than 40%. However, the design, build quality and environmental considerations are of a high standard. Ground source heat pumps would be used for heating along with a heat ventilation recovery system. These features would be coupled with PV panels and solar thermal plus a rainwater harvesting system.

Concluding, therefore, it is considered that the proposal would not conflict with the overall aims and objectives of Policy 22, which are to protect the rural character of the countryside. It is consistent with advice contained within Section 12 of the National Planning Policy Framework, 2019. Paragraph 127 stresses that planning policies and decisions should ensure that developments are visually attractive, add to the overall character of the area and are sympathetic to local character and history.

It is noted that the previous permission for the original dwelling was temporary (5 years) and subject to an agricultural clause. However, there has been a breach of condition for a period exceeding ten years. Legal Services has been consulted and has advised, in light of the aforementioned and relevant case law, that an agricultural clause will not be applicable to the new dwelling.

In terms of amenity, the nearest residential properties are Greenways to the north and Izaners almost opposite. Greenways is situated beyond existing farm buildings. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, overbearing effect, noise and disturbance, etc.

LCC Highways/SUDs does not wish to restrict the grant of planning permission.

In terms of flood risk, the site is in Flood Zone 3 within the Environment Agency Flood Maps. However, it is within an area of no hazard within the SHDC Strategic Flood Risk Assessment. The proposal therefore passes the sequential test. In terms of the exceptions test, a 300mm finished floor level is recommended.

It is noted

Conclusion

The proposal does not conflict with the fundamental objectives of South East Lincolnshire Local Plan Policy 22. It would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, overbearing effect, noise and disturbance, etc. LCC Highways/SUDs does not wish to restrict the grant of planning permission. In terms of flood risk, the proposal passes the sequential test.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.