

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0289-24 **Applicant:** Fletcher Salads

Proposal: Demolition of an existing agricultural building and replace with the erection of two dwellings with incidental garden space and vehicular parking

Location: Broadgate Nursery Broadgate Gedney

Terminal Date: 23rd May 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
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
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 and 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	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the demolition of an existing agricultural building and the erection of two dwellings.

The proposal is for two number 2 storey dwellings one positioned partially over the footprint of the existing agricultural building and the other further to the south. Both dwellings have gardens and a separate access which attach to the access track that leads out to Cade Drove.

Plot 1 seeks planning permission for the erection of a two-storey property, with a traditional farmstead appearance. The dwelling is bookended with chimney stacks and is proposed to be finished with a red facing brick and slate tile roof, this property is shown as a 4 bedroom dwelling (or 3 with office).

Plot 2 is seeking to create a threshing barn aesthetic; this is shown as a 4 bedroom property. The external facing brick is suggested as red on the drawing though details are not fully confirmed. The roof is dressed in red clay single ridge pantiles.

The proposal is justified based upon an extant permission to convert the existing agricultural building into two dwellings. Plot two as part of this proposal is located outside of the red line boundary associated with that planning application.

Site Description

Broadgate nurseries is located approximately 2 km to the southwest of Long Sutton. There are a number of buildings on the site, close to the access is a brick built barn that benefits from an extant permission to convert into a dwelling, this was approved under H06-0286-23, this included the removal of a cold store and caravans. The application site naturally is located within the open countryside and outside of any defined settlement boundary. The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the South East Lincolnshire SFRA indicates that the site is within an area designated as a low hazard area.

History

Application Site:

H06-0868-23 - Change of use of agricultural building into 2 dwellings with associated works. Approved 27-11-23

Adjacent Site:

H06-0286-23- Full - Conversion of agricultural building into residential dwelling including the removal of cold store building and static caravans. Approved 23-05-23.

Consultation Responses

Highways

ADDITIONAL INFORMATION REQUIRED The access will need upgrading to Lincolnshire County

Council Specification. A note should be added to the proposed site plan detailing this.

Environmental Protection

I request a standard land contamination condition be applied at this location

Historic Places Officer

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

IDB

The applicant proposes to discharge surface water to a watercourse, however the discharge rate has not been provided at this stage. This proposal will require consent under Byelaw 3, and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate. A surface water development contribution is likely to be payable as a condition of any consent granted under Byelaw 3 in line with the WMA's Development Control Charges and Fees.

Conservation Officer

Proposals are minor and far enough away from the relatively nearby Grade II listed Pulvertoft Hall for me to be comfortable assessing that there shall be no risk of influencing or indeed harming the character or setting of that heritage asset.
I therefore have no objection to this proposal.

Parish

Council has no objections to 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 is located within the open countryside and outside of any defined settlement boundary, Long Sutton likely being the closest settlement. The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the South East Lincolnshire SFRA indicates that the site is within an area designated as a low hazard area.

The following issues are relevant to this assessment:

Principle of Development

Fall Back position
Landscape and character
Amenity
Highway Safety
Flood Risk and Drainage
Land Contamination
Planning Balance

Principle of Development

The application site is located outside of the defined settlement boundary and within the open countryside. SELLP Policy 1 sets out the spatial strategy for the district, part 'd' is relevant to the countryside, it states:

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 policy justification (paragraph 3.2.17) expanding upon countryside housing stating 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 meet any of the above exceptions for housing set out within the SELLP, South Holland DC can also demonstrate a 5 year supply for the delivery of housing (see evaluation) and therefore the proposal is considered unacceptable in principle.

Fall Back position and assessment of betterment

The site benefits from a Class Q permission (see planning history) for the conversion of the existing barn to form two dwellings (of semi-detached nature). The red line boundary is drawn closely around this existing building allowing for parking and some outdoor amenity space. Plot 2 associated with this application (as well as some of the curtilage associated with plot 1) is located outside of the redline boundary, that allows for the conversion of the agricultural building to be converted into two dwellings.

The applicant has put forward case law in relation to how 'fallback' is considered in planning terms. The first case put forward is R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. This sets out three elements for consideration:

1. Whether there is a fallback use, whether there is lawful ability to undertake such a use;
2. Whether there is a likelihood or real prospect of point 1 above occurring; and
3. If the answer to point 2 above is yes, a comparison must be made between the proposed development and the fallback use.

The second case put forward is Mansell vs Tonbridge and Malling Borough Council (2017) The Court of Appeal held in Mansell, the fact that an agricultural building could be converted (the "fallback position") is a material consideration when considering a proposal for a new house or houses, provided that there is a realistic prospect of such development going ahead. Where such consent exists, or could reasonably be granted, then it is possible to design a brand-new house and present a case to a Local Authority that there are benefits ("a betterment") in planning terms over and above any generated from the Class Q conversion.

The term 'Betterment' is meant in simplistic terms in that, would the proposed scheme offer a better alternative to the scheme already approved. The applicant uses the Mansell case suggesting "It stands to reason 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."

The applicants argument in that this proposal represents betterment, is best expressed within paragraph 5.6 of the planning statement:

Although, the proposal does not provide a reduction in density, the demolition of the existing modern utilitarian farm building and replaced with two sympathetically and carefully designed

dwelling offers a significant enhancement to the setting of the area, as detailed in the following section of this statement'.

Effectively then the LPA are asked to consider whether this proposal represents a 'significant enhancement to the setting of the area' over what has been approved under H06-0868-23 (the class Q approval) .

NPPF Paragraph 180b states that:

Planning policies and decisions should contribute to and enhance the natural and local environment by: recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

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 proposal 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".

Notwithstanding that a fall back exists, and that there is a probability that it may come forward, when making a comparison between the proposed development and the fallback use, it is clear that there is an overall increase on form. From a singular building into two (albeit smaller) detached two storey buildings. Another issue that presents itself is that the fall back, which is real (and probable) is contained within the footprint of the existing agricultural building and this proposal seeks to extract a residential planning unit (from that permission) and erect it outside of the approved red line boundary.

The essence behind the introduction of Class Q prior approvals (which has been labelled as Class MB previously) was to give an adaptive reuse to well established agricultural buildings (that have informed countryside character for years) that are no longer fit for the purposes of modern-day agriculture.

The building in question was approved as it was justified that this was the case. A design put forward that worked with the dimensions of the building and the creation of two residential planning units within it. The effect upon the countryside landscape was therefore limited through the design, in that the dimensions of the building were retained, materials and fenestration based upon the context of the building; this ultimately resulted in a supportable design as there was limited impact upon the countryside character. A red line boundary was drawn tight to the building, so as domestic paraphernalia and associated activities would not overly pollute the character of the area.

Subsequently this proposal has come forward which seeks to demolish the agricultural building and in its place erect two dwellings, with sizeable gardens, one based upon a farmstead the other on a threshing barn, this context is drawn from a generic notion of what residential form types are appropriate within the Lincolnshire countryside rather than anything site specific. The landscape of the area, naturally for this part of Lincolnshire is broad and open.

The proposal would result in an increase of built form across the site, this form would give rise to new considerations in relation to the impacts upon the open countryside. The fall back allows for an adaptive reuse of the existing building, conversely this proposal would involve its loss and in place an extended area of land given over to form two residential planning units both with two storey dwellings located within them, resulting in a much larger area given over to residential development. There are a multitude of buildings on this site, though none are put forward for conversion, nor explored, therefore a true contextual approach has not been considered.

The effect upon the wider landscape would therefore result in the loss of a well-established agricultural building, that was considered worthy of the adaptive reuse and the erection of two architectural distinct dwellings based upon a 'loose courtyard design'. This would increase the amount of form (both in density and footprint) across the wider countryside location resulting in detriment to its intrinsic character and natural beauty.

Therefore, when considering the fall back against the proposed scheme (and the term betterment) the result would not be 'significant enhancement to the setting of the area', but rather it would give rise to unacceptable harm to the character of the open countryside through the increase in density, form and an inappropriate extension into the open countryside contrary to SELLP Policies 1, 2, 3 and 30 and NPPF Paragraph 180b. On this basis the proposal is not considered to represent betterment.

Amenity

SELLP 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.

SELLP 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.

In terms of amenity the proposal are considered acceptable. The plans show that a sufficient separation distance is retained between the two properties not to give rise to unacceptable impact relating to overshadowing or overbearing upon one another. Furthermore, openings are located (or designed) in a way that would limit visual intrusion impacts between the two properties.

All other residential properties (including the approved conversion of a nearby barn (see planning history)) are located a sufficient distance away.

On this basis and in terms of amenity the proposal is considered acceptable.

Highway Safety

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 is concerned with parking and cycling provision and is also considered relevant. The proposal would utilise the same access arrangement that was previously approved under H06-0868-23 where the Highway authority had no objections. This time a request for additional information has been received. Given the extant permission available for the applicant to utilise the same access proposed under this application (both serving two dwellings) it is considered that the proposal is acceptable as regards highway safety.

Highway safety is within the remit of a Class Q assessment, and no issues were raised. It is considered therefore that in this instance the proposal is acceptable in highways terms, despite the request for additional information this is because there are no changes the main access arrangement and the changes to the access/egress of each plot are well away from the adopted highway network.

Flood Risk and Drainage

The application site is located within Flood Zone 3 in accordance with EA Maps for planning. The hazard flood maps show that the area is categorised as a 'low hazard' with depths less than 0.75m, on this basis the standing advice (in relation to non-major more vulnerable development) states that the following must occur:

- An FRA submitted along with the application
- Improving flood performance of new buildings - Flood Resilience construction DCLG 2007
- Finished Floor Levels set at 300mm above external ground levels for 2 storey proposals.

The applicant has provided an FRA by RM Associates and stated that a sequential test is not required, stating:

It is considered that the proposed development of two new-build dwellings passes the sequential test given there is a fallback position because of the prior approval which has previously been granted for the conversion of the existing agricultural building to two dwellings.

Notwithstanding the fact that a sequential test is not required under Class Q assessment, this application is for full planning permission. Plot two which is the replica threshing barn is located wholly outside of the red line boundary approved under H06-0868-23 and proposes the erection of a market dwelling, this area is not part of what the LPA considers to be the applicant's fallback position and in fact represents a new proposal. On this basis the sequential test is required and given no information has been provided it is ultimately failed. Furthermore, in relation to sustainability elements of the exceptions test, the harm that would follow by developing further into the open countryside would outweigh the modest benefits that would follow from the erection of a market dwelling.

In terms of drainage strategy and finished floor levels, the FRA is compatible with EA standing Advice. The IDB would mitigate surface water drainage through their consenting process and waste water given its is to utilise a package treatment plant would also require both building regulation as well a further IDB consenting if it is to be discharged into a watercourse. The drainage is considered acceptable as it is mitigated outside of planning.

On this basis then it is considered that the applicant in proposing to erect a new market dwelling outside of the red line boundary of an extant permission is required to sequentially test this area, given no information has been received as regards the existence of more suitable sites/locations then the test is ultimately failed. Furthermore, the harm that would follow the proposal (if approved) would outweigh any modest benefits that would follow from such a scheme.

Land Contamination

SELLP Policy 30 is concerned with Pollution. It states that 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'.

The Environmental Protection Officer has been consulted and has requested the standard set of land contamination conditions to be attached to any planning permission.

Therefore, subject to this mitigation it is considered that the proposal would accord with SELLP Policy 30.

Ecology

SELLP Policy 28 is concerned with the Natural Environment, part 3 deals with addressing gaps within the ecological network and is relevant to the proposal.

The applicant has provided An Ecological Impact Assessment that shows the impact upon protected species from the proposal would be acceptable. It also sets out mitigation measures that would be required as part of any permission achieved.

In terms of bio-diversity the applicant claims that the scheme is exempt from the mandatory 10%. There are methods to achieve a net gain however in line with policy requirements and this is achieved through landscaping. It is considered on this basis the scheme is acceptable.

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 proposed development would not result in a betterment over what has been previously approved under H06-0868-23. The agricultural building approved for adaptive reuse to form two dwellings is well established and has informed this part of the Lincolnshire landscape for a number of years, whilst described as utilitarian in this submission it has previously been championed for its ability to be converted into dwellings, the approved scheme that followed was of high merit and retained the buildings aesthetic and therefore limited the character harm from the change of use. This proposal seeks the demolition of that building and a large extension into the open countryside so two detached dwellings can be erected. A simulacrum of a 'loose courtyard' with replica Threshing Barn and farmstead are proposed. This proposal would increase both the density and footprint of domestic development into the open countryside, its context is based on a generic

assumption of what the Lincolnshire Countryside generally contains in terms of residential form, rather than utilising a site-specific contextual approach which is best practice (NDG, Design Code etc). Conversely the fall back permission approved under H06-0868-23 was based on a site specific context, retained existing form and provided limited additional character harm upon the open countryside; essentially achieving the aims of what Class Q seeks to achieve. Therefore, when considering a betterment argument, it is clear that this proposal does not reflect an improved scheme, due to the lack of site specific context and the intrusive harm that the extension of foot print and increase in density inflicts upon the countryside character.

Furthermore it is considered that a sequential test would be required. Whilst weight is given to the applicants fall-back position the application site ultimately is not the same site which the fall back relates to. The application site does include the redline boundary area of the fall back, but seeks to extend so much so that it represents a new application site. The site is located within flood zone 3. On this basis then it is considered that a sequential test is required to demonstrate that no other sites within an area with a lower probability of flooding currently exist, the sequential test should be based upon the SFRA.

On balance it is considered that the harm to the open countryside through the proposed extension of residential form and density would not be outweighed by any benefits brought about by the proposed development.

Conclusion

The proposal is not considered to represent betterment, giving rise to irreversible harm to the open countryside character of this part of Lincolnshire. The proposal is considered to be unacceptable and is recommended for refusal based upon the assessment discussed in this report.

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.