

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0524-23 **Applicant:** Mr & Mrs G Merrison

Proposal: Demolition of existing barn and erection of dwelling including pool and garage building and change of use of land to domestic gardens

Location: Parsons Yard Middle Drove Gedney

Terminal Date: 9th 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 5. Delivering a sufficient supply of homes.
Section 9. Promoting sustainable transport;
Section 11. Making effective use of land.
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	1	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK	0	0	0	1

ASSESSMENT				
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The site has the benefit of planning permission for demolition of an existing agricultural building and erection of a 5 bed house, most recently ref. H06-1104-22). This application is for the addition of an attached triple garage at the side and swimming pool at the rear, plus a change of use of part of a paddock to domestic garden.

Site Description

The site is located in open countryside on the northern side of Middle Drove and is currently occupied by an agricultural building of corrugated metal and asbestos/fibre cement construction. Native hedging and a shallow drain are situated along the frontage.

A cottage (plus associated buildings) is situated approximately 80 metres to the south-west and a bungalow (Mariern) approximately 190 metres to the south-west on the opposite side of Middle Drove.

Recent History

H06-1043-21 - PAA - Change of use of barn to residential dwelling - Approved 29 November 2021.

H06-0754-22 - Full - Demolition of existing barn and erection of dwelling - Approved 11 November 2022.

H06-1104-22 - S73 - Demolition of barn and erection of dwelling - approved under H06-0754-22. Modification of Condition 2 to allow amendments to previously approved plans - Approved 9 January 2023.

H06-0084-23 - Cond Comp - Details of contamination of land or pollution of controlled waters and foul/surface water disposal (Conditions 5 and 8 of H06-1104-22) - Approved 1 June 2023.

Consultation Responses

Gedney Parish Council

Support.

LCC Highways/SUDs

No objections.

South Holland Internal Drainage Board

Our advice is that BRE365 methodology is used to ensure soakaways are appropriate. However, the Board would not object to the approval of this application, based on the rates that have been calculated indicating soakaways are likely to be feasible.

Environment Agency

Proposal comes under Cell D8

Environmental Protection

In agreement with findings within the Geo-environmental Desk Study.

Lincolnshire Bat Group

Ecology Management Scheme not satisfactory.

LCC Archaeology

No archaeological input.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received (summarised):

- No objections subject to the existing hedgerows not being disturbed or altered in any way. Used by Yellowhammers for nesting which are ranked "red" on the UK conservation status listing, plus other birds.

Key Planning Considerations

The principle of a dwelling upon the site has already been established and this is not disputed. The main issues, therefore, are whether the revisions are acceptable in terms of character/appearance, impact upon the amenity of nearby residents, plus other matters such as highway safety, flood risk, ecology, etc.

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036 (SELLP), 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 (updated 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Character and Appearance

Policy 2 of the SELLP outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. 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.

These policies accord with the provisions of the National Planning Policy Framework and require 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.

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, contained within section 12 of the National Planning Policy Framework (2021), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping.

Proposals for new development 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 proposed extensions are single storey and sympathetic in terms of design. They are in character with dwelling, which would still be set back from the public realm by a significant distance (approximately 40 metres). It would not appear significantly more prominent in the street scene compared to the original scheme. The additional area of garden is also set back, with paddock remaining at the front. It would be commensurate with the size of the dwelling.

In light of the above, the revisions are considered acceptable on character/design grounds and in accordance with Policies 2 and 3 of the Local Plan and advice within the Framework in this regard.

Impact upon Residential Amenity

Policies 2 and 3 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.

Paragraph 130 of the National Planning Policy Framework (2021) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

A cottage (plus associated buildings) is situated approximately 80 metres to the south-west and a bungalow (Mariern) approximately 190 metres to the south-west on the opposite side of Middle Drove. Given the separation distances involved the proposal would not result in any unacceptable impact upon neighbouring amenity in terms of overlooking, lack of privacy, overshadowing, overbearing effect or noise/disturbance.

Taking the above into account, the proposal satisfactorily complies with Policies 2 and 3 of the SELLP, 2019 and Section 12 in the NPPF, 2021 in terms of residential amenity.

Highway Safety

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.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

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".

The large agricultural building, that is proposed to be demolished, is served by an existing, wide concrete apron that has presumably been used by fairly substantial agricultural vehicles attending the building. This access is therefore more than adequate to provide vehicular access to the proposed dwelling. Middle Drove has a straight horizontal alignment which, together with the wide highway verge, provides more than adequate visibility in both directions for a driver to be able to emerge safely from the access into the public highway. Ample space is to be provided within the site for residents and their visitors to be able to park their cars off the public highway.

In view of the above and having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety and therefore does not wish to object to this planning application.

The proposal therefore complies with Policies 2, 3 and 36 in this respect.

Flood Risk

Policy 4 of the South East Lincolnshire Local Plan is clear in that "development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria are met.

The above include where it can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed). The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location.

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 details "the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site is located within Flood Zone 3 on the Environment Agency Maps. The sequential test therefore needs to be applied.

The EA maps have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined information within The South East Lincolnshire Strategic Flood Risk Assessment (SFRA). It provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. The hazard mapping within the SFRA designates the site as "Danger for Most".

In terms of the sequential test, the aim is to steer new development to areas with the lowest

probability of flooding. The NPPF states that development should not be permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding. It is important to note that the Sequential Test does not specifically mean that sites such as this cannot be developed, rather that sites at less risk should be developed first. In this case, the whole of the surrounding area is shown on the Flood Map for Planning to be in Flood Zone 3 and there are no other sites in a lower flood zone. Moreover, there is a fallback position because prior approval has previously been given for conversion of the existing agricultural building to a dwelling.

Applying the Flood Risk Vulnerability Classification in Table 2 of NPPG, use as residential is classified as "More Vulnerable". Table 3 of NPPG states that an exception test is therefore required. It is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The NPPF and the PPG set out two elements to the Exceptions Test.

First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

In terms of the first element, new residential development would not normally be considered appropriate in this location. However, there is a fallback position in the sense that prior approval has previously been given for a residential conversion (ref. H06-1043-21). This has to be given significant weight.

In terms of flood mitigation measures required by virtue of part 2 of the exceptions test, the application is accompanied by a flood risk assessment which recommends that finished floor levels (FFLs) be set at 4.3m aOD with 0.3m of flood resilient construction above FFL.

Concluding, therefore, whilst there is some conflict with SELLP Policy 4 and advice within the Framework it is outweighed by other factors in this case, including the fallback position.

Contamination

The application is accompanied by a Geo-environmental Desk Study. Environmental Protection are in agreement with its findings.

Ecology

Policy 2 of the South East Lincolnshire Local Plan (SELLP), 2019 states that sustainable development considerations should be met in relation to such matters as impact or enhancement for areas of natural habitats. Policy 3 indicates that development proposals should, where relevant to the proposal, include the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity.

Policy 28 outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly greenspace will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposals shall provide an overall net gain in biodiversity.

The explanatory text sets out that development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species, such as, the use of bat roost boxes, green roofs or walls, and integrating nesting opportunities into buildings and green infrastructure.

The application is accompanied by an Ecological Survey which indicates that there are no observable opportunities for bats and birds to access/egress the present structure. However, there are bird nesting opportunities within the hedgerows. The application is accompanied by an ecology management scheme which indicates that the existing hedging would be retained. Ecological mitigation/enhancement measures are also proposed. These matters can be addressed by means

of conditions.

Lincolnshire Bat Group has raised issues about the submitted Ecology Management Scheme. However, the latter has previously been approved as part of previous planning permissions for this site, including ref. H06-0754-22 where Lincolnshire Bat Group was notified but did not raise issues. This application is solely for revisions to the scheme so it would be unreasonable to object to the Ecology Management Scheme at this stage.

The proposal satisfactorily complies with Policies 3 and 28 in terms of ecology, subject to conditions as previously.

Planning Balance

As detailed above, 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 site already has approval for demolition of the existing agricultural building and erection of a new dwelling (ref. H06-0754-22 and H06-1104-22). The principle has therefore been established. The revisions to the previously approved plans are acceptable and would not materially harm the character or appearance of the locality, or amenity of nearby residents. Other matters such as flood risk and ecology can be addressed by means of conditions. The proposal satisfactorily complies with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework when viewed as a whole.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 2, 3, 4 and 28 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (2021). There are no significant factors in this case that indicate against the proposal and outweigh the considerations in favour of the proposal and the policies referred to within the development plan as a whole.

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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 2, 3, 4 and 28 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (2021). There are no significant factors in this case that indicate against the proposal and outweigh the considerations in favour of the proposal and the policies referred to within the development plan as a whole.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved conditionally under Delegated Authority.