

Dobney Developments Ltd

rdc
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Design and Access Statement and Flood Risk
Assessment.

Proposed Dwelling to Replace Former Horticultural
Building with Implemented Planning Permission to be
Converted to Residential Use (LPA Ref H08-0647-15)
Land at 106 Siltside, Gosberton Risegate, Spalding,
Lincolnshire.

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town planning



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TABLE OF CONTENTS

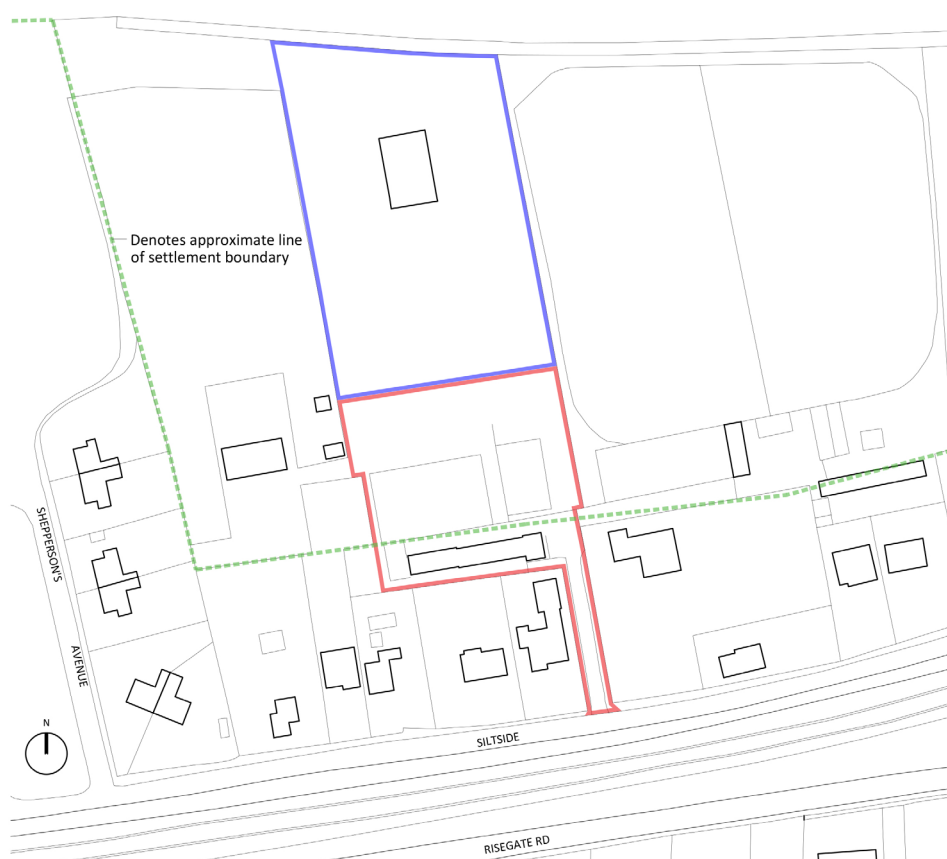
1.	INTRODUCTION	1
2.	APPLICATION SITE AND SURROUNDINGS.....	2
3.	PLANNING POLICY	6
4.	DESIGN AND ACCESS	11
5.	FLOOD RISK	13
6.	CONCLUSIONS.....	14

1. INTRODUCTION

- 1.1. This Design and Access Statement has been prepared by Robert Doughty Consultancy Ltd on behalf of Dobney Developments Ltd to accompany a Full Planning Application for the replacement of a former agricultural building, which has an implemented planning consent for the conversion to a 4 bedroom single storey dwelling (LPA ref:- H08-0647-15), with a 4 bedroom, one and a half storey dwelling.
- 1.2. Pre-application advice was obtained from the Local Planning Authority (LPA) in June 2019, which stated that the proposed replacement dwelling would be classed as a new dwelling in the open countryside and the Court of Appeal case cited where a fallback position of Permitted Development rights (Part Q) was considered, is not relevant. Accordingly, in the event that a planning application was submitted, it would most likely be refused.
- 1.3. It is the applicant's view, however, that the presence of an implemented planning permission to create a dwelling on the site, coupled with the character of the site and the immediate area, are significant material considerations and that, in exercising the planning balance, the LPA should grant planning permission for the development proposed.
- 1.4. A site layout and all the necessary drawings are submitted with the application to show how the proposal will be accommodated on the site and which demonstrate the impact on the character of the site and general area.

2. APPLICATION SITE AND SURROUNDINGS

- 2.1. The application site is located immediately adjacent to the settlement boundary of Gosberton Risegate and comprises an existing agricultural building and horticultural paraphernalia associated with the former business on site. The site is untidy, does little for the character of the area and will never be actively farmed due to the nature of the ground and the size of the land in relation to the open farmland field structure beyond.



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Location Plan Extract with the approximate line of the settlement boundary

- 2.2. The boundaries of the entire former horticultural unit benefit from mature planting consisting of trees and hedges and the northern hedge row, in particular, forms a strong delineation between the collection of paddocks and gardens to the south that characterise the fringe of the settlement and the open, intensively farmed agricultural land beyond.
- 2.3. There are no public views of the application site or the wider extent of the former horticultural unit.

2.4. A selection of photographs can be seen below.



Former horticultural building with implemented planning permission to be used as a 4 bed dwelling with old glasshouses to the north



Looking north across the former horticultural unit with the significant planting to the east and north.



Looking south west across the site with the dwellings on Shepperson's Avenue in the background



Looking south towards the horticultural building with the mature planting on the eastern boundary



Looking north towards the northern boundary with open farmland beyond

3. PLANNING POLICY

The Development Plan

3.1. Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that, "If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise."

3.2. The Development Plan for the purposes of this application is comprised of the South East Lincolnshire Local Plan (the 'Local Plan') 2019. Those policies considered relevant for the proposal are set out below:

Policy 1: Spatial Strategy

Policy 2: Development Management

Policy 3: Design of New Development

Policy 22: Replacement Dwellings in the Countryside

3.3. Policy 1 sets out the spatial strategy for the distribution of growth across the plan area. Gosberton Risegate is identified as an "other service centre", where development will be supported within the settlement boundaries that helps sustain existing facilities and will normally be limited to allocated and committed sites and infill.

3.4. Although the application site falls just outside the settlement boundary (albeit that it is difficult to establish whether it is inside or outside on the inset plan in the local plan), Gosberton Risegate is considered to be a sustainable settlement, where new residential development is permitted.

3.5. Policy 2 indicates planning permission will be granted where the development satisfies the sustainable development considerations. The conversion of the existing agricultural building (which might well be inside the settlement boundary) establishes the principle of development on the site.

3.6. Part Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 sets out the criteria for the change of use of agricultural buildings to dwellings, subject to certain criteria. In 2015, the LPA confirmed that the prior approval of details relating to the conversion of the horticultural building were not required (LPA ref H08-0647-15) and, accordingly, the conversion of the building into a 4-

bedroom dwelling was implemented. The case of *Mansell v Tonbridge and Malling BC* [2017] EWCA Civ 1314 in the Court of Appeal now properly settles the debate on the use of the fall-back position as a material consideration. In that case, in recommending a planning application for approval, the planning officer recognised that the existing agricultural building on site could be converted into three dwellings and an existing bungalow could be replaced. Accordingly, although the new proposal on the site was to erect four new dwellings, there was a realistic likelihood of the fall-back position being exercised and planning permission was granted. In respect of the current application, a formal application for prior approval was granted and subsequently implemented, making the fall-back position almost certain in the event of a refusal of planning permission for the proposed 'replacement'.

- 3.7. The proposal will, therefore, result in no net increase in the number of approved dwellings in the open countryside (albeit that the site is adjacent to the settlement boundary) and as we go on to describe in this document, there is no detrimental impact arising from the proposal, contrary to the view expressed by the LPA in the pre-application advice.
- 3.1. Policy 3 confirms the Council's commitment to promoting good design and sets out a number of criteria developments must satisfy where appropriate.
- 3.2. The plans accompanying the application depict a modest one and a half storey dwelling located close to the agricultural building to be converted and wholly within an area that has been used historically for an intensive horticultural business comprising glasshouses, polytunnels and associated paraphernalia. The design is characteristic of the varied mix of architectural styles seen along Siltside and an appropriate palette of materials will result in a form of development that will be in keeping with the general grain of development in the area.
- 3.3. Policy 22: Replacement Dwellings in the Open Countryside sets out the criteria for the such proposals and states that they will be permitted provided that the residential use of the building has not been abandoned, the replacement dwelling is of a high standard, is on a similar footprint and the replacement does not exceed the original dwelling by more than 40%.

- 3.4. Clearly the proposal is not the typical replacement dwelling proposal, however, section 38(6) requires proposals be decided in accordance with the development plan **unless material considerations indicate otherwise**. In the particular instance, the extant permission to create a dwelling from an existing building is a material consideration and whilst it is the preserve of the LPA to place whatever weight they deem appropriate on this material consideration, the Court of Appeal clearly placed significant weight on the ability to utilise Part Q in granting permission for 'replacement' dwellings in the case of *Mansell V Tonbridge and Malling*.
- 3.5. The proposal would see the redevelopment of the implemented barn conversion slightly further away from the footprint of the existing building, but in a location dominated by horticultural paraphernalia and also away from the fence of the adjacent dwelling on Siltside, which provides for better separation between existing and resultant dwellings.
- 3.6. Policy 29 requires development proposals to conserve and enhance the character and appearance of designated and non-designated heritage assets and their settings through high-quality sensitive design.
- 3.7. We have consulted both Heritage Gateway and the LPA's online mapping service and there does not appear to be any assets near to the proposal that will be affected.

National Planning Policy Framework

- 3.8. The National Planning Policy Framework (the "NPPF") sets out Central Government's planning policies for England and how these are expected to be applied.
- 3.9. Paragraph 8 of the NPPF confirms the commitment to sustainable development based on three dimensions:

"a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;

b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering a well-designed and safe built environment, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and

c) **an environmental objective** – to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.”

3.10. This is followed by a commitment to a presumption in favour of sustainable development and at paragraph 11,

“For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

3.11. Paragraph 38 confirms this to be the case stating that, ‘decision makers at every level should seek to approve applications for sustainable development wherever possible.’

3.12. Paragraph 47 states that planning law requires applications should be determined in accordance with the development plan.

3.13. Paragraph 38 states that “Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permissions in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.”

3.14. Paragraph 189 states:

“In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets’ importance and no more than is sufficient to understand the potential impact of the proposal on their significance”.

3.15. Paragraph 196 states:

"Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use".

4. DESIGN AND ACCESS

Use

- 4.1. The application site lies adjacent to residential development and is shown to be adjacent to the settlement boundary for Gosberton Riseagate in the Local Plan.
- 4.2. Prior approval has been granted for the change of use of a former horticultural building on site and this has been implemented by virtue of the laying out of services to the building.
- 4.3. It is proposed to replace this with a new dwelling and demolish the former horticultural building. The resultant dwelling is no more than 40% bigger than the existing building and lies close to the existing footprint which enables better separation between the proposal and the existing dwelling to the south on the Siltside frontage.
- 4.4. Having regard to the character of the immediate area in comparison to the wide-open agricultural land to the north, there will be no detrimental visual impact arising from the proposal.



Site Plan Extract

Scale

- 4.5. The proposal is for a one and a half storey dwelling with dormer windows in the roof as shown on the submitted drawings, measuring 2.8m metres to the eaves and 7 metres to the ridge.

Landscaping

- 4.6. The application site already benefits from established planting to the eastern and part of the western boundaries as described earlier in this document and it is planned to provide a new northern boundary within what is the former nursery. Suitable boundary fencing and planting will be provided along the southern boundary following the removal of the existing horticultural building.
- 4.7. Having regard to the existing planting and, in particular, the strong mature hedge on the northern boundary of the former nursery, there will be no impact on the character of the area.

Appearance

- 4.8. The proposed dwelling have been designed in a cottage style to reflect the rural character of the area with stone cills and lintels.
- 4.9. The high standard of design together with the use of traditional facing bricks and roof covering, will enhance the character of the area, whilst respecting the rural setting.

Access

- 4.10. Access to the site will use the existing arrangement that historically served the former horticultural business and, accordingly, there will be a reduction of vehicular movements in and out of the site.

5. FLOOD RISK

- 5.1. The application site lies within Flood Zone 3a and table 3 in the Planning Practice Guidance states that 'more vulnerable' development is appropriate in this zone.
- 5.2. The Strategic Flood Risk Assessment carried out as part of the South East Lincolnshire Local Plan, which was updated in March 2017, indicates that the site is in a 'no hazard' area in both the present day and for 2115.
- 5.3. Sequentially, the proposal is to replace an existing building and, therefore, cannot be located elsewhere, however, having regard to the absence of a flood hazard, there is no risk of a flooding incident affecting the site even when taking into account climate change.
- 5.4. There are no other sources of flooding near the site that are likely to affect the proposal and there will be no impact arising from flooding to local land uses and users arising from the development.
- 5.5. The extant permission for the conversion had all the accommodation on the ground floor, whereas all the sleeping accommodation for the replacement will be on the first floor result in a betterment in flood risk terms.

6. CONCLUSIONS

- 6.1. Pre-Application Advice received from the LPA in June 2019 stated that the former horticultural building would need to be completed and occupied before it could be considered to be a dwelling in the context of the Local Plan policy 22: Replacement Dwellings in the Countryside and that an application for a change of use would need to be submitted and approved (and presumably implemented) to enable a wider curtilage to be considered as part of any 'replacement' proposal.
- 6.2. It is the contention of the applicant that the planning balance has not been carried out in providing the pre-application advice and that, in the context of section 38(6), the other material considerations, in this case the settled case law on the fall-back position coupled with the character of the area in relation to countryside, were given no weight.
- 6.3. If that appropriate weight was considered, planning permission should be granted and this is also echoed in paragraph 38 of the NPPF.
- 6.4. In addition to the above, there are no technical constraints as to why the site cannot be developed.



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