

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0050-21 **Applicant:** Mr L Butcher
Proposal: Creation of pond and wildlife area for private use
Location: Old Gate House Further Old Gate Holbeach
Terminal Date: 23rd March 2021

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 12, 14 and 15.

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

OTHER STATUTORY BODIES	0	0	1	0
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CASE OFFICER ASSESSMENT

Proposal

Planning permission is sought for the creation of pond and wildlife area for private use within a paddock associated with Old Gate House.

Site Description

The site is located in open countryside on the northern side of Further Old Gate. The nearest residential properties are Fensever (plus associated kennels/cattery) some 150 metres to the east and Westbury to the west within landscaped grounds.

Planning History

H09-0615-17 - O/A - Replacement dwelling, Further Old Gate, Holbeach - Granted 14 August 2017.

H09-0279-18 - Full - Erection of 5 bedroom dwelling and change of use of agricultural land to paddock - Granted 15 May 2018.

Consultation responses

Holbeach Parish Council - No response.

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

SHIDB - I have been informed by the applicant that they plan to use a perforated pipe running through their field as an overflow mechanism, rather than discharge to the watercourse as previously stated. If this is the intention I hereby confirm that the applicant will not require consent from the Board to carry out these works.

Environmental Protection (Contamination) - No comments or objections

Environment Agency - No comments

Planning Considerations

The main issues in this case are:

- Policy/principle;
- Character/appearance and amenity;
- Highway issues;
- Flood Risk/drainage.

Policy/principle

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is outside a settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Therefore, the site is located within the countryside. Policy 1 of the Local Plan states that "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".

In this case, the proposal is for a pond and wildlife area in conjunction with an existing dwelling. Given the ancillary nature of the development, the proposal cannot be located elsewhere within a settlement boundary. The proposal is therefore in accordance with Policy 1 of the South East Lincolnshire Local Plan, 2019 and the principle of the scheme is acceptable unless material considerations indicate otherwise, according to section 70(2) of the Town and Country Planning Act 1990.

Policy 28 of the SELLP indicates that development proposals should provide an overall net gain in biodiversity by maximising the opportunities for restoration, enhancement and connection of natural habitats, and maximise opportunities to enhance green infrastructure and ecological corridors, including water space. The proposal is a biodiversity gain and therefore satisfactorily complies with this policy.

Character/Appearance

The proposal would involve additional tree planting and would generally enhance the existing character and appearance of the countryside.

The proposal is in accordance with Policies 2 and 3 of South East Lincolnshire Local Plan, 2019 in this respect.

Residential Amenity

The nearest residential properties are Fensever (plus associated kennels/cattery) some 150 metres to the east and Westbury to the west within landscaped grounds.

The proposal is low key from an amenity point of view and would only be for private use. Given the nature of the proposal and the separation distances involved it is considered that the proposal would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, noise and disturbance, odour, etc. If any environmental issues were to arise they could be addressed under separate legislation.

The proposal is in accordance with Policies 2, 3 and 30 of South East Lincolnshire Local Plan, 2019 in terms of amenity.

Highway Safety

The access and parking arrangements remain unchanged, therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

The proposal is in accordance with Policies 2, 3 and 36 of South East Lincolnshire Local Plan, 2019 in this respect.

Flood Risk/Drainage

The site is within Flood Zone 3 on the Environment Agency Maps and within an area designated as "danger for some" within the SHDC Strategic Flood Risk Assessment. However, it is not a more vulnerable use. Lincolnshire County Council, as Lead Flood Authority, does not consider that this proposal would increase flood risk in the immediate vicinity of the site.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed private pond and wildlife area is considered appropriate in this rural location. It would constitute a biodiversity gain and enhance the existing character and appearance of the countryside. It would not materially harm the amenity of nearby residents in terms of issues such as overlooking, lack of privacy, noise and disturbance, odour, etc. There are no significant flood risk issues in this case. The proposal is considered to comply with Policies 1, 2, 3, 4, 28, 30 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning

Policy Framework (NPFF), 2019.

There are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the scheme and the policies referred to above.

Conclusion

The planning balance lies in favour of the proposal.

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.

Recommendation

That the application be approved under delegated powers.