

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H09-0059-24      **Applicant:** Mr E Rowell

**Proposal:** Erection of house & garage and change of use of agricultural land to paddock

**Location:** Rosedale Farm Chapel Drove Holbeach Drove

**Terminal Date:** 1st April 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                             |
| 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                          |
| APPENDIX 6 | Parking Standards                                  |

### National Guidance

#### National Planning Policy Framework 2023

Section 2. Achieving sustainable development.  
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        |

|                                             |   |   |   |   |
|---------------------------------------------|---|---|---|---|
| SOUTH HOLLAND<br>INTERNAL DRAINAGE<br>BOARD | 0 | 0 | 0 | 1 |
| SHDC INTERNAL                               | 0 | 0 | 1 | 1 |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

The site's north-eastern frontage is part of an area of land that has prior approval for change of use of agricultural buildings into 4 dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (ref. H09-0548-22).

Full planning permission was subsequently granted for the demolition of an existing agricultural building and erection of 2 no. 5-bed 2-storey detached dwellings (ref. H09-0021-23). This application relates to plot 2 and is to revise the design and appearance of the dwelling, plus change of use of agricultural land at the side/rear to paddock.

### **Site Description**

The north-eastern part of the site was until recently part of an existing farmyard on the western side of Chapel Drove and was formerly occupied by an agricultural building. The remainder of the site is agricultural land.

A residential property (Ivory Cottage) is situated some 30 metres to the south-west and an associated dwelling (Rosedale) to the north-east beyond the farmyard. A nursery and associated dwelling (Pentland House) are situated opposite to the east/north-east.

### **Planning History**

H09-0548-22 - PAA - Conversion of agricultural building into 4 dwellings - Approved 25 July 2022.

H09-0021-23 - Full - Demolition of agricultural barn and erection of two dwellings - Approved 17 April 2023.

H09-0739-23 - Cond Comp - Details of landscaping, foul and surface water disposal, contamination of land or pollution of controlled waters & ecological biodiversity measures (Conditions 3, 6, 8 and 11 of H09-0021-23) - Under consideration.

H09-0740-23 - S73 - Demolition of agricultural barn and erection of two dwellings - approved under H09-0021-23. Modification of Condition 2 to allow amendments to previously approved plans (Plot 1) - Approved 20 December 2023.

### **Consultation Responses**

#### **Holbeach Parish Council**

No objections.

#### **LCC Highways/SUDs**

No objections, subject to conditions.

#### **South Holland Internal Drainage Board**

Recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy, we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3.

### Environmental Protection

Contamination - Have reviewed the report and agree with the findings and therefore make no further comments.

Noise - No observations.

### Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

### **Key Planning Considerations**

The site has full planning permission for the demolition of an existing agricultural building and erection of 2 no. 5-bed 2-storey detached dwellings (ref. H09-0021-23). This application is to revise the design and appearance of the dwelling on plot 2, plus change of use of adjacent agricultural land to paddock. The main issues in this case are therefore:

- i) Whether the dwelling now proposed is acceptable in terms of design and appearance and other planning grounds.
- ii) Whether change of use of associated land to paddock is acceptable on policy and other planning grounds.

### 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 (SELLP) 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 (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

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.

### Principle of Development and Sustainability

The site is outside a settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), March 2019. It is therefore within an area regarded as countryside.

SELLP Policy 1 indicates that development in the countryside 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.

Addressing the first element, a dwelling in this location would not normally be considered sustainable and is not therefore in accordance with Policy 1 of the SELLP.

However, the site is part of an area of land that has prior approval for a change of use of agricultural buildings into 4 dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. Moreover, the plot is one of two that has permission for two new dwellings (ref. H09-0021-23).

The principle of a dwelling upon the plot has therefore been established. In terms of the design and

appearance of the dwelling, it still retains a design concept based upon a traditional barn and is considered acceptable and in compliance with Policies 2 and 3 of the SELLP.

Concerning the proposed paddock, SELLP Policy 1 states that development will be permitted in the countryside 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.

Paragraph 3.2.15 of the SELLP indicates that there are types of development that require a countryside location such as agriculture, but also other uses such as recreation. The proposal falls within this category and is considered acceptable in principle in this type of location, subject to it being acceptable on other planning grounds.

### Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework, December 2023.

The site was formerly part of an existing farmyard, which would be retained to the north-east. This plot is adequately protected from the farmyard by the development proposed on plot 1.

The nearest dwellings are Ivory Cottage some 30 metres to the south-west and an associated dwelling (Rosedale) to the north-east beyond the farmyard. A nursery and associated dwelling (Pentland House) are situated opposite to the east/north-east. No resident objections have been received.

The proposed dwelling has secondary windows serving a lounge and games room at ground floor level on its south-western elevation and no windows at first floor level on this elevation. The north-eastern elevation has ensuite windows only at first floor level. A kitchen window and utility door are situated at ground floor on this elevation. A 1.8m high closeboarded fence is therefore recommended.

It is considered that the proposal would not materially harm the amenity of neighbouring residents in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc, subject to conditions.

The proposal therefore complies with Policies 2 and 3 on amenity grounds.

### Highway Safety

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class. Two spaces for dwellings with 3 or less bedrooms should be provided within the curtilage. Three spaces for dwellings with 4 or more bedrooms should be provided within the curtilage.

The principle of a dwelling has already been established. LCC Highways has been consulted and has indicated that the access location has been changed and is acceptable, subject to the existing access being stopped up. The parking and turning is also acceptable for the size of dwelling. They consider that the proposal would not have an adverse impact on the public highway.

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

### Flood Risk

Policy 4 of the South East Lincolnshire Local Plan relates to flood risk and indicates 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 is met.

The site is partially within Flood Zones 1 and 2, but within an area designed as no hazard within the

South East Lincolnshire Strategic Flood Risk Assessment. It is therefore considered acceptable on sequential grounds, also bearing in mind the fall-back position.

The proposal should still meet the requirements for a site-specific flood risk assessment since it is a more vulnerable development. The accompanying flood risk assessment recommends that floor levels be raised by 300mm above existing ground level and that floor resistant/resilient construction be incorporated.

### Contamination

The application is accompanied by a Geo-Environmental Desk Study which indicates that the need for a Phase II intrusive investigation is considered unwarranted. Environmental Protection are in general agreement with the findings and have no further comments to make.

### Ecology

Policy 3 of the SELLP 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 indicates that all development should provide an overall 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 Ecological Impact Assessment accompanying the previous application (ref. H09-0021-23) indicated that there would be no significant effect upon protected species, subject to mitigation measures. Native hedge and tree planting is proposed. Bio-diversity enhancements are also required, which can be addressed by means of conditions.

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

### 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 site is outside a settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), March 2019. It is therefore within an area regarded as countryside.

SELLP Policy 1 indicates that development in the countryside 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.

It has not been demonstrated that a dwelling is necessary or sustainable in this particular location. Consequently, the proposal is not in accordance with Policy 1 of the SELLP and the site would not normally be considered suitable for new housing.

However, there is a fallback position in this case because the site benefits from prior approval for a change of use of existing agricultural buildings into residential under Class Q, plus a later permission for a new dwelling in lieu of conversion of the agricultural building. This is a material consideration that outweighs the conflict with the development plan and justifies granting planning permission for the proposal. No objections are raised in principle to the proposed paddock.

The proposal is acceptable on grounds of character and appearance. There are no objections to the scheme on amenity, highway safety, flood risk, contamination and ecology grounds, subject to conditions.

### **Conclusion**

The proposal satisfactorily complies with Policies 2, 3, 4, 28, 30 and 36 of the South East Lincolnshire Local Plan, 2019, subject to appropriate conditions. Although there is conflict with

Policy 1 in relation to the dwelling, the fallback position is a material consideration which outweighs the conflict with the development plan and which justifies granting planning permission for 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**

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