

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0078-19 **Applicant:** Mrs S Maylam & Mr D Warburton
Proposal: Erection of 4 no. Self-build & Custom built dwellings
Location: Land Adjacent: The Red House Boston Road Holbeach
Terminal Date: 24th May 2019

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
17	Providing a Mix of Housing
19	Rural Exception Sites
28	The Natural Environment
30	Pollution
32	Community, Health and Well-being
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2019

2, 3, 4, 5, 8, 9, 11, 12, 14, 15

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1

SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	6	1	0	1

CASE OFFICER ASSESSMENT

Proposal

Outline planning permission is sought for the erection of 4 no. self-build & custom built dwellings, with all matters reserved for subsequent approval.

Description

The site (some 0.38ha) is currently agricultural land on the western side of Boston Road, some 150 metres north of the A17. A row of trees and a footway are located along the site's frontage. Residential properties (Red House and Mentha) are situated to the south and a bungalow (137 Boston Road) to the north. A row of dwellings is situated opposite.

Policies/Constraints

The site is outside Holbeach Settlement Limit as defined in the South East Lincolnshire Local Plan (March 2019).

South East Lincolnshire Local Plan, 2019

The Self-build and Custom Housebuilding Act 2015

The Act (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

The Act also sets a 'duty to grant planning permission etc', specifically "...authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period."

To increase the number of planning permissions which are suitable for self-build and custom housebuilding, Councils are encouraged to work towards:

- developing policies in their Local Plan for self-build and custom housebuilding;
- using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;
- engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and
- working with custom build developers to maximise opportunities for self-build and custom housebuilding.

The Self-build and Custom Housebuilding Regulations 2016

Planning History

H09-0613-18 - Outline - Proposed residential development 6 houses and garages, Adjacent: Red House, 117 Boston Road North, Holbeach - Refused 31 July 2018.

Reasons:

- 1) Unsustainable;
- 2) Flood risk (fails the sequential test).

Consultation Responses

Holbeach Parish Council - No comments.

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

Housing Strategy - There are currently 44 applicants that are registered on the South Holland District Council Custom and Self-build Register.

Environmental Protection - Request a desk top study condition due to the previous use of the site.

LCC Archaeology - No impact.

Public:

Objections/concerns raised by nearby residents (summarised):

Contrary to policy; Harm the rural character and appearance of the area; Green belt; Suburbanisation; Loss of agricultural land; Isolated/incongruous; No need for additional housing; Inadequate services/facilities/infrastructure; Overlooking/lack of privacy; Noise/disturbance; Blockage of view; Blockage of light; Boston Road North is a narrow, fast and dangerous road; Increased traffic, to the detriment of highway safety; Blind corners; Block footway during construction period; Current speed restriction inadequate; Potential flood risk; Set precedent; Field the home of wildlife including deer; Protection of existing trees and hedgerows; Underground services on plot 1.

Information from applicant (summarised):

1. The Self Build and Custom House Building Act 2015 and subsequent Acts place a duty on each planning authority to keep a register of the name of persons seeking a plot for self-build houses (presently 44). Under the Act the Council has a duty to make such specialised plots available (none have been made available); Redress for the non-provision for such plots is possibly an application to The Local Government Office for maladministration.
2. Similar to the site granted permission at Penny Hill Road, Holbeach. Both sites in similar flood zone and this site is closer to the town centre with a roundabout with dropped kerbs for pedestrians. Likewise, the proposed dwellings are an enabling development benefitting a special group of people who are more important than football pitches.

Material Planning Considerations

The main issues in this case are:

- Policy/principle;
- The likely impact upon the amenity of nearby residents;
- Highway safety;
- Other material considerations such as flood risk, drainage, contamination and ecology.

Policy/Sustainability

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Paragraph 11 of the National Planning Policy Framework (NPPF), 2019 indicates that plans and decisions should apply a presumption in favour of sustainable development unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

The site is located outside a settlement boundary as defined in the recently adopted South East

Lincolnshire Local Plan (SELLP), 2019. For the purposes of the SELLP, the appeal site lies within the countryside.

SELLP Policy 1 directs developments within settlement boundaries and states 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.

The application is for 4 no. self-build & custom built dwellings. The Government is seeking to increase the number of such properties. The Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The Council currently has 44 applicants on its register.

In this context, the National Planning Policy Framework, 2019 indicates that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including people wishing to build their own homes).

In accordance with the above, Policy 17 of the South East Lincolnshire Local Plan, 2019 stresses that the Local Plan will seek to meet the housing needs of custom and self builders as they may come forward.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom built dwellings and indicates at paragraph 5.3.5 that "within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met. Housing need may also be met through Policy 19: Rural Exception Sites, where appropriate."

Policy 19 indicates that proposals for housing on sites situated outside, but adjoining the defined settlement boundaries identified by Policy 1 will be permitted where the following criteria are met:

1. the scheme would meet an identified local need for affordable housing, starter homes or specialist housing that cannot be met within the settlement boundaries;
2. the scale of the development would be in-keeping with the role and function of the settlement; and
3. pre-application engagement with the local community has been undertaken to the satisfaction of the Local Planning Authority.

Assessing the proposal against the above policies and advice, the dwellings would provide moderate economic benefits from their construction and servicing and offer temporary employment. Future occupiers may also work locally and help to support local services and facilities. Further, there would be social benefits in helping the Authority meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings.

However, it is considered that there are a number of adverse environmental impacts that would significantly and demonstrably outweigh the moderate economic and social benefits outlined above. The site is poorly related to the existing settlement of Holbeach, being on the opposite side of the A17, and is some distance from existing services and facilities. Future occupiers would have to negotiate the heavily trafficked A17 to access such services on foot or by cycle. As a consequence, future occupiers would be likely to have a high dependence on the use of motor vehicles which, no matter the distance of travel involved, would be contrary to advice within Section 9 (Promoting Sustainable Transport) of the National Planning Policy Framework, 2019. Also, the reliance on the motor car would increase carbon emissions, contrary to the requirements of the environmental role of planning.

Moreover, the site is greenfield land located beyond the northernmost fringe of Holbeach, which is defined by the A17. The site is essentially located within a transition zone between the built up form of the settlement and countryside. Its character is defined by existing development interspersed by more open agricultural land such as the site. Paragraph 170 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character and the countryside. The development would further urbanise this section of

Boston Road North and would therefore materially harm the rural character of the locality.

Consequently, the proposed development would not provide a sustainable location for self-build & custom built housing and would conflict with Policies 1, 2, 11 and 19 of the SELLP. Policy 1 indicates 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. Policy 2 stipulates that sustainable considerations should be met in terms of impact upon the character and appearance of the area. Explanatory text accompanying Policy 11 states that within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. Policy 19 indicates that proposals should meet an identified local need for affordable housing, starter homes or specialist housing that cannot be met within the settlement boundaries and that the scale of the development would be in-keeping with the role and function of the settlement.

The above policies are consistent with advice within the National Planning Policy Framework, 2019. For example, Paragraph 170 states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 122 and 127 indicate that new development should be sympathetic to and maintain an area's prevailing character.

The applicant has indicated that the site is similar to that granted permission at Penny Hill Road, Holbeach and that the proposed dwellings are an enabling development benefitting a special group of people who are more important than football pitches. Whilst each case should be considered on its own merits, the community needs in respect of the provision of sports facilities were considered to carry greater weight. Moreover, Penny Hill Road is linked to the town centre via an underpass, unlike Boston Road North.

Residential Amenity

A bungalow (137 Boston Road) is situated to the north of the site and a house (Red House) to the south. Residential development is situated opposite. It is considered that the site could be developed without materially harming the amenity of nearby residents in terms of overlooking, lack of privacy, overshadowing, noise and disturbance, etc.

Blockage of view and de-valuation of property are not material planning considerations and therefore carry no weight.

Highway Issues

The indicative site plan shows plots 2 to 4 served by a single access. Concerns have been raised by local residents on grounds that Boston Road North is a narrow, fast and dangerous road and that the proposal would lead to an increase in traffic, to the detriment of highway safety. However, LCC Highways has been consulted and does not wish to restrict the grant of permission, subject to consideration being given to the adjacent private boundary trees and the impact they may have on visibility.

Other Material Considerations

Flood Risk - The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

The Environment Agency's Flood 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 flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The South Holland SFRA indicates that the site is located within an area identified as mostly

"Danger for Most" in terms of flood hazard. There are alternative sites appropriate for the proposed development that are reasonably available, more sustainable and which are located in areas with a low risk of flooding. Moreover, the proposal fails the exceptions test because the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal therefore conflicts with advice within paragraphs 158 to 160 of the National Planning Policy Framework, 2019.

Drainage - The application form indicates that surface water would be disposed of to soakaways. Drainage details could be addressed by means of a condition if permission was forthcoming.

Contamination - Due to the previous use of the land Environmental Protection has requested a contaminated land condition.

Ecology - The site is agricultural land fronted by a row of trees. There is no evidence that protected species would be adversely affected by the proposed development.

Conclusion

Assessing the proposal against the above policies and advice, the dwellings would provide moderate economic benefits from their construction and servicing and offer temporary employment. Future occupiers may also work locally and help to support local services and facilities. Further, there would be social benefits in helping the Authority meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom- build dwellings.

However, it is considered that there are a number of adverse environmental impacts that would significantly and demonstrably outweigh the moderate economic and social benefits outlined above.

Moreover, the South Holland Strategic Flood Risk Assessment indicates that the site is located within an area identified as mostly "Danger for Most" in terms of flood hazard. There are alternative sites appropriate for the proposed development that are reasonably available, more sustainable and which are located in areas with a low risk of flooding. Moreover, the proposal fails the exceptions test because the proposal would not provide wider sustainability benefits to the community that outweigh flood risk.

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 to grant permission 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 to grant permission 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 to grant permission 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 refused under delegated powers.