

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 19 July 2023

(Author: Catherine Sutton - Planning Officer)

Purpose: To consider Planning Application H09-0141-23

Application Number: H09-0141-23

Date Received: 13 February 2023

Application Type: FULL

Description: Self build Eco friendly multigenerational dwelling and associated garage

Location: Land west of Cranmore Lane Holbeach Spalding

Applicant: R Nazan

Agent: ADSDF Ltd

Ward: Holbeach Town

Ward Councillors: Cllr S E Hutchinson
Cllr T Carter
Cllr N J Chapman

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H09-0141-23>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 South Holland District Council own the application site land.

2.0 PROPOSAL

2.1 This application seeks full planning permission for the erection of a dwelling, under Paragraph 80 of the National Planning Policy Framework (NPPF 2021) and as a self-build dwelling, off land west of Cranmore Lane, Holbeach. The proposed dwelling would be two stories and would comprise a self-build eco-friendly, multigenerational dwelling with a detached garage.

3.0 SITE DESCRIPTION

3.1 The site is located on land west of Cranmore Lane, Holbeach. The site is approximately 1.25 hectares in size and currently overgrown with self-seeded trees, hedgerow and grass.

3.2 The site lies outside any defined settlement boundary and therefore lies within the countryside in policy terms. The immediate area is characterised by mainly open countryside with a neighbouring dwelling to the south of the site. The site is within the Environment Agency Flood Zone 3.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

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

01 - Spatial Strategy
02 - Development Management
03 - Design of New Development
04 - Approach to Flood Risk
05 - Meeting Physical Infrastructure and Service Needs
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
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
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

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H09-0109-07 - Full - Retention of gypsy caravan site with 9 pitches, each accommodating up to 3 caravans - Refused June 2007
- 5.2 H09-0170-04 - Full - Change of use of agricultural land to grass paddocks including access roadway (part retrospective) - Approved May 2004
- 5.3 H09-0943-04 - Full - Use of land for residential caravan site for 9 families of the travelling community. (Retrospective) - Refused October 2004
- 5.4 H09-0679-04 - Condition Compliance - Details of tree planting scheme (Condition 2 of H09-0170-04) - Approved November 2004

It is worth noting that the application site comprises an undeveloped parcel of land. The applicant has identified within their supporting documents that the site has been utilised as a site for the travelling community. However, the site has not been subject to the grant of planning permission by the Local Planning Authority and whilst the site has previously been subject to the siting of caravans, this was an unlawful development that was subject to a dismissed appeal. Therefore, the site has not been subject to a previous permitted use or development.

6.0 REPRESENTATIONS

- 6.1 Holbeach Parish Council
- 6.2 No Objections

- 6.3 Cllr G T D Rudkin
- 6.4 Objections, I believe this falls outside the Settlement Plan. Due to the history of this site a full survey of contamination on this area need doing and a biodiversity study doing.
- 6.5 Cllr F Biggadike
- 6.6 I consider this to be an opportunity to return this area which the 1932 O.S. MAP shows it was back to a haven for all of natures creatures. The environment act of today would never have allowed this situation to happen , I support the applicant in his proposal for this which will also ensure that the land drainage for the west of Manor Farm will be able to flow to the S,H.I.D,B.Holbeach new river 50 meters away unheeded. Also support Officer delegation for approval of this application.
- 6.7 South Holland Internal Drainage Board
- 6.8 Byelaw 3 (Surface Water)
- 6.9 The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We 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. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.
- 6.10 Byelaw 3 (Treated Foul Water)
- 6.11 The applicant has indicated that they wish to discharge treated foul water to a watercourse following treatment using a package treatment plant. This proposal will require consent under Byelaw 3.
- 6.12 Section 23, Land Drainage Act 1991
- 6.13 I note the presence of watercourses which are not maintained by the Board (riparian watercourses) adjacent to the northern, eastern and western site boundaries. Whilst not currently proposed, should the applicant's proposals change to include works to alter these riparian watercourses, or if works are proposed to alter these watercourses at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).
- 6.14 Byelaw 10
- 6.15 There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.
- 6.16 Environmental Protection Officer SHDC
- 6.17 I request a standard contaminated land condition be applied at this location.
- 6.18 Highway and Lead Local Flood Authority/SUDS
- 6.19 No objection.
- The Application Site is outside of the established settlement boundary of Holbeach but the proposed dwelling is for the benefit of the the Applicant and his extended family, rather than a speculative development for market sale. The proposed dwelling would utilise the existing

access to the land that had previously been used as a travellers' caravan site. The access is of a reasonably good standard, has satisfactory visibility in both directions and would thus provide safe and suitable access and egress for the proposed dwelling. The proposed development also intends to utilise the existing internal road for vehicle movement within the site and this would also allow the construction workforce to park within the site and materials to be unloaded within the site, rather than on Cranmore Lane. Whilst the southern part of Cranmore Lane, beyond the settlement boundary, is generally single-track, there is a passing place part way along and there is an existing residential property on Cranmore Lane, next door to the Application Site. It would be difficult therefore to demonstrate that the additional vehicle movements associated with the occupation of the single additional dwelling being proposed in this Application could not be safely accommodated on the local highway network.

6.20 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 or a severe residual cumulative impact upon the local highway and therefore does not wish to object to this planning application.

6.21 Neighbouring Residents

6.22 This application has been advertised in accordance with the Development Management Procedure Order and the Council's Statement of Community Involvement. 20 letters of representation have been received from neighbouring residents, their comments are summarised below:

6.23

- Draw your attention to the covenant on the land in question
- Was informed no development could take place until after 2036
- The land is unfit for human habitation
- There is contamination leakage from the land
- Incorrect information within the submission- It has always been greenfield not brownfield
- Noise disruption
- Privacy will be removed
- Causing distress
- Love the design of house.
- Eco friendly
- Great use of waste land.
- Fitting for the location
- Not in keeping with the surrounding countryside
- Will be beneficial for Holbeach
- Money from the land can go back in the public purse

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

Principle of Development

7.2 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.

7.3 Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build 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"*.

7.4 This latter point is particularly pertinent as it makes clear that permission should only be granted

for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in a recent appeal decision (APP/A2525/W/18/3218958), despite giving the statutory requirement re self-build and custom-build significant weight, that the appeal site was not a suitable location for that type of housing. This demonstrates the above point in practice. Furthermore, the site in this instance lies outside of the defined settlement boundaries and therefore also fails to accord with this, in that the text clearly refers to the anticipation of sites being 'within the defined settlement boundaries'.

- 7.5 The South East Lincolnshire Local Plan makes no exceptions to its spatial strategy for previously developed land, for existing plots of residential land being subdivided, or for self-build. Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan area. However, with reference to custom and self-builders it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions.
- 7.6 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 relevant development plan in this case is the South East Lincolnshire Local Plan (SELLP), which was adopted in March 2019. The Council has a housing land supply exceeding five years (5.9 years on 31 March 2022).
- 7.7 The site is located outside the Holbeach Settlement Limits, as defined within the South East Lincolnshire local Plan. It is therefore regarded as being within the countryside in policy terms.
- 7.8 Policy 1 of the South East Lincolnshire Local Plan details the Spatial Strategy of the plan area, including the settlements within South Holland in which development could be considered appropriate. Within the settlements, identified within four settlement categories (Sub-Regional Centre, Main Service Centres, Minor Service Centres, and Other Service Centres and Settlements), development that complies with the provision of Policy 1, could be considered acceptable in principle, subject to the proposals compliance with other relevant national and Local Plan policies.
- 7.9 The application site lies within a postal area of Holbeach, a settlement that is identified as a Main Service Centre within Policy 1 of the Local Plan. However, the site itself lies detached from the main built form or built-up area of Holbeach and lies extensively beyond the clearly identified settlement boundaries for Holbeach, as specified within Policy 1. Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.
- 7.10 Development within the countryside is limited to that where it "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". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.
- 7.11 The supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The application site comprises an undeveloped parcel of land that is not considered to meet the provisions of either of these policies. The proposal comprises a new residential dwelling located within the open countryside, located on undeveloped land and therefore does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).
- 7.12 Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan area. However, with reference to custom and self-builders it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions.

- 7.13 However, open market housing, which this self-build house would be considered to be, is not a development type that specifically requires a countryside location. This is particularly the case in this instance where the Council has a development plan that has been relatively recently adopted, with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (5.9 years on 31 March 2022); as such, whilst windfall sites would contribute to the housing provision, there is no direct need for unsuitable development or development within the open countryside that conflicts with Local Plan Policies.
- 7.14 Notwithstanding the above, the application has been submitted as a 'Paragraph 80 dwelling', as detailed within the submitted plans and stated within the submitted Design and Access Statement; meaning that the development has been submitted to accord with paragraph 80 of the National Planning Policy Framework.
- 7.15 Para 80 of the NPPF states that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply". Criteria a-d of para 80 do not apply to this proposal as it does not comprise a 'rural workers dwelling' whereby a property is required nearby to their place of work, the conversion or viable use of a heritage asset, the re-use of a redundant or disused building, or comprise the sub-division of an existing residential building.
- 7.16 Point e. of para 80 is clear in detailing that, for the development of new isolated home within the open countryside, the proposal must comprise a: "design of exceptional quality, in that it: - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area".
- 7.17 It is also appreciated that Paragraph 134 of the NPPF does require decision makers to give "significant weight to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings".
- 7.18 In this respect, whilst the adopted Local Plan does not permit new-build residential properties in the open countryside and therefore the proposal would be at conflict with Policy 1, the provisions of Paragraph 80 would be a key material consideration in the determination of this planning application, with the revised NPPF having been adopted more recently in 2021.
- 7.19 Although the proposed dwelling is of a differing and bold design, which some may consider to be of good design, it is not considered to be particularly innovative or comprise a design that is 'truly outstanding' or of the 'highest standards in architecture', as specifically required by paragraph 80 of the NPPF. Furthermore, the submission fails to illustrate how the proposal meets the provisions of para 80, and in particular does not demonstrate that the development has been designed to reflect and sensitively coincide with the existing rural setting or characteristic that it would reside within. The proposal fails to provide a clear assessment of landscape character, with the proposal not comprising a design detail that has been fundamentally produced through its assimilation with the existing landscape character.
- 7.20 In addition, it could also be stated that the application site; although comprising an open countryside location, fails to be entirely isolated in nature. The site lies within close proximity to large buildings to the north (edge of settlement of Holbeach) and lies immediately neighbouring a remotely sited detached dwelling, which itself lies adjacent a further detached bungalow. Therefore, as was also detailed within recent planning appeal H02-0608-20 which stated that "given the proximity of other dwellings, I do not consider that the appeal site would be 'isolated' for the purposes of the National Planning Policy Framework (the Framework), since it cannot be said that it would be far away from other places, buildings or people, albeit the location is rural"; the proposal could be considered as not comprising an isolated location to comply with Para 80; therefore failing to comply with the initial fundamental requirement of para 80.
- 7.21 The proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019 and therefore is at conflict with the South East Lincolnshire Local Plan. The proposal, for a number of reasons as detailed above, fails to meet the criteria of Paragraph 80 or 134 of the National Planning Policy Framework.

- 7.22 Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in accordance with advice within the National Planning Policy Framework, 2021. Paragraph 130 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 seeks to protect the character of the countryside. Paragraph 134 give the decision maker significant weight to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. These are key considerations in matters relating to development within isolated locations and of particular interest for 'para 80' proposals. Further assessment of the proposals impact on the character of the area is detailed further within the report below.
- 7.23 Layout, Design and Appearance
- 7.24 Part 12 of the NPPF (Achieving well-designed places) states that good design is a key aspect of sustainable development and new development should be visually attractive as a result of good architecture and appropriate landscaping. It is important that new residential development should be of the highest quality to enhance and reinforce good urban design characteristics. It is generally accepted that good design plays a key role towards sustainable development. Regard must be had towards the impact that the proposed dwelling would have on local character, including topography, street patterns, building lines, boundary treatment and through scale and massing.
- 7.25 Specifically, paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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, among other considerations.
- 7.26 Likewise, Policy 2 of the SELLP states 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.
- 7.27 Although the proposed dwelling is of a differing and bold design, it is not considered to be particularly innovative or comprise a design that is 'truly outstanding' or of the 'highest standards in architecture'. Furthermore, the submission fails to illustrate how the proposal meets the provisions of para 80, and in particular does not demonstrate that the development has been designed to reflect and sensitively coincide with the existing rural setting or characteristic that it would reside within.
- 7.28 The Design and Access Statement indicates that the proposal is considered to provide high quality housing that delivers a contemporary low carbon exemplar project. Whilst the environmentally sustainable design approach is commendable, materials being sustainably sourced and chosen to have minimum requirements for maintenance as well as the following features (detailed below) within the dwelling is not sufficient to demonstrate 'truly outstanding' or 'innovative design'.
- 7.29
- Rain water harvesting: the use of collected rainwater in the building to flush toilets and also to irrigate the landscape and food growing
 - Solar panels to generate electricity for the dwelling
 - Ground source heat pump: an excellent highly efficient and low carbon heating system
 - Sewage treatment plant
 - SuDS - the sustainable management of water on site
 - Biodiverse ecology and landscape as a food source.
 - Electric car charging points
 - Composting to reduce waste
 - Construction methods for primary structure currently specified as timber frame construction
 - Encouraging biodiversity through the introduction of insect hotels, bird and bat boxes

- 7.30 These features can be replicated within any other location, meaning the design is not 'innovative' and solely for the application site. The use of these features can be utilised throughout alternative development and the proposed dwelling, regardless of whether the design is considered by some as being visually pleasing, does not provide a design that has been specifically tailored to the application site, and does not comprise a design that has been detailed or demonstrated to actively assimilate with its surrounding landscape character.
- 7.31 The proposal is for a large two storey contemporary designed dwelling which is of a T shape, sited west of the application site, measuring a maximum of approx. 9.3m in height. It is considered that the proposed dwelling would be at odds with the character and appearance of the surrounding area and rural character, given that the proposal fails to provide an appropriate relationship or assimilation with its surrounding rural character, amongst others. This unacceptable adverse impact would be exacerbated through the proposed materials on the dwelling; these comprise feature black brickwork, copper alloy cladding and upper-level slate style shingle cladding. The neighbouring dwelling is constructed of traditional red brick.
- 7.32 The bulk and contour of the development would appear insensitive to the flat topography of the site and surroundings which characterises the rural landscape. Therefore, the proposal would create a detrimental impact on the character of the local area.
- 7.33 Consequently, the proposal is not considered to be of exceptional design as required in the criterion e) of Paragraph 80 and 130 of the National Planning Policy Framework and, furthermore, the proposed dwelling is considered cause an unacceptable adverse impact to the character and appearance of the area, contrary to Policies 2 and 3 of the Local Plan and Section 12 of the National Planning Policy Framework.
- 7.34 Impact of Neighbouring Residents/Land Users
- 7.35 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.
- 7.36 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.
- 7.37 The proposed development proposes a layout that would ensure adequate separation distances to the neighbouring property. The proposed development is considered to form an appropriate design in respect of residential amenity, as to minimise the potential for overlooking to the existing neighbouring dwelling, being approximately 132.54 metres away from the closet elevation of Ladysmith's House and approximately 95.50 meters away from the boundary within closest proximity.
- 7.38 Furthermore, the dwelling within the surrounding context also benefits from sizeable amenity spaces. These garden spaces to neighbouring properties, whilst potentially being impacted to a minimal degree of overlooking which could be afforded to the ends of gardens, it is considered that sufficient private amenity space will be retained by adjoining occupiers, and the development would not result in overlooking or loss of privacy or amenity that would otherwise warrant refusal of planning permission on amenity concerns.
- 7.39 As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties; and as such accords with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan in respect of residential amenity.
- 7.40 Highway Safety and Parking
- 7.41 Paragraph 111 of the NPPF advises that development should only be prevented or refused on

transport grounds where the residual cumulative impacts of development are severe.

- 7.42 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.
- 7.43 Given that the access would be utilised by the occupants of the dwelling and their visitors, the volume of traffic is not considered to be significant. Likewise, the resultant development is not considered to result in a significant mark rise in vehicular traffic, albeit this would introduce additional traffic. The vehicular access or subsequent pedestrian access, along with movements to, from or nearby to the sites, is not considered to cause detrimental harm to vehicular or pedestrian safety to this part of Cranmore Lane.
- 7.44 Lincolnshire County Council Highways/SuDS, as Local Highway Authority, were consulted as part of the application process. No objections were raised, stating that "The proposed dwelling would utilise the existing access to the land that had previously been used as a travellers' caravan site. The access is of a reasonably good standard, has satisfactory visibility in both directions and would thus provide safe and suitable access and egress for the proposed dwelling. The proposed development also intends to utilise the existing internal road for vehicle movement within the site and this would also allow the construction workforce to park within the site and materials to be unloaded within the site, rather than on Cranmore Lane. Whilst the southern part of Cranmore Lane, beyond the settlement boundary, is generally single-track, there is a passing place part way along and there is an existing residential property on Cranmore Lane, next door to the Application Site. It would be difficult therefore to demonstrate that the additional vehicle movements associated with the occupation of the single additional dwelling being proposed in this Application could not be safely accommodated on the local highway network."
- 7.45 Policy 36, to be read in conjunction with Appendix 6 of the 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. The dwelling has adequate provision for parking. It is considered that, overall, the development has more than adequate parking is shown within the curtilage of the dwelling.
- 7.46 The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan policies 2 and 3, and Section 9 of the National Planning Policy Framework.
- 7.47 Flooding Considerations
- 7.48 The site is within Flood Zone 3 of the Environment Agency's Flood Maps. They 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 East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.
- 7.49 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". Para 162 details that "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.

- 7.50 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, 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. The sequential test is not required for sites allocated in the Local Plan, minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site)", with 'minor development' in this instance taking the definition outlined within the NPPF and National Planning Practice Guidance in relation to flood matters.
- 7.51 The application in this instance has been supported by a flood risk assessment. This assessment concludes that the "proposed development benefits from tidal defences on the River Welland that provide protection during the 1% annual probability (1 in 100 chance each year) fluvial event and 0.5% annual probability (1 in 200 chance each year) tidal event including climate change". The report also concludes that "there is a residual risk associated with a breach of the defences.
- 7.52 As such, mitigation has been proposed including the ground floor level for the development shall be set 300mm above the existing average ground level for the site to be set at a minimum of 2.90mODN.
- 7.53 Conditions would be recommended, in an instance where the development is considered favourably. However, given the concerns raised above, the recommendation in this instance would not require the attachment of conditions.
- 7.54 Based on the mitigation proposed, it is considered that the proposal would accord with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF 2021 in this regard, subject to conditions.
- 7.55 Biodiversity
- 7.56 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.
- 7.57 It is noted that a need for a 10% Biodiversity Net Gain is likely to be forthcoming within the near future; however, to date, this has not yet come into force.
- 7.58 In this respect, the proposed development partially illustrates landscaping. However, the demonstration of this provision overall is somewhat lacking. However, it is considered that, in an instance where the development is considered favourably, conditions could be imposed to ensure adequate detail is submitted to and approved by the Local Planning Authority, with the subsequent detail being implemented, maintained and retained where possible.
- 7.59 Planning Balance
- 7.60 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.
- 7.61 It is recognised that the proposal is deliverable and would help to provide the supply of housing required to meet the needs of present and future generations, although being a specific custom/self-build in this instance. As stated, although the proposed dwelling is of a differing and bold design, it is not considered to be particularly innovative or comprise a design that is 'truly outstanding' or of the 'highest standards in architecture'. Furthermore, the submission fails to

illustrate how the proposal meets the provisions of para 80, and in particular does not demonstrate that the development has been designed to reflect and sensitively coincide with the existing rural setting or characteristic that it would reside within.

7.62 The site is not therefore considered to be a sustainable location for new housing. Consequently, the proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019 and fails to meet the criteria of Paragraph 80 or 134, of the National Planning Policy Framework.

7.63 Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in accordance with advice within the National Planning Policy Framework, 2021. Paragraph 130 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 seeks to protect the character of the countryside. Paragraph 134 give the decision maker significant weight to outstanding or innovative designs which promote high levels of sustainability or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings. In this respect, as detailed above, the proposal is not considered to be appropriately designed or comprise development that would appropriately assimilate within its rural setting. The development, as detailed above, would cause an unacceptable impact to the character and appearance of the area; contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning policy Framework.

7.64 The proposal would provide benefit, in that it would create a single residential dwelling, whilst providing construction work and sourcing local materials. However, the provision of a single residential dwelling, along with the associated construction work, provides limited weight. This minimal benefit, coupled with the proposals clear conflict with the adopted development plan (South East Lincolnshire Local Plan), conflict with the provisions of the National Planning Policy Framework and its adverse impacts on the character and appearance of the area, concludes that the proposal does not provide outweighing benefit that would otherwise outweigh the concerns and conflicts raised.

7.65 Conclusion

7.66 The proposal is for residential development in the countryside. Such forms of development are generally unsustainable by definition and contrary to the provisions both of the Local Plan and of National Policy which seek to direct residential development to more sustainable locations and by so doing protect the countryside from harmful and inappropriate development.

7.67 Whilst the submission in this instance comprises a 'para 80 proposal', for the reasons detailed above, the proposal also fails to accord with this provision of the National Planning Policy Framework. No special circumstances have been submitted to justify development in this location, and given that the Council can demonstrate a housing land supply far in excess of the 5 year threshold, there are no grounds on the basis of housing need to support development in this location.

7.68 On such basis the proposal would conflict with the provisions of the development plan for South East Lincolnshire and with National Policy and planning permission should be refused.

7.69 **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.

8.0 RECOMMENDATIONS

8.1 That the application be refused for the reasons set out at Section 9.0 of this report

9.0 REASONS FOR REFUSAL

1. The proposal is for residential development outside of the settlement boundary. Such forms of development are generally unsustainable by definition and contrary to the provisions of both of the Local Plan and of National Policy, which seek to direct residential development to more sustainable locations and by so doing protecting the countryside from harmful and inappropriate development. No special circumstances have been submitted that are considered to justify the proposal in this location, and given that the Council can demonstrate a housing land supply in excess of the 5 year threshold, there are no grounds on the basis of housing need to support development in this location.

Therefore, the proposal would conflict with Policy 1 of the South East Lincolnshire Local Plan, 2019, which seeks to direct development within settlement boundaries and with Local Plan Policy 2, which requires developments that respect the character and appearance of the area among other things.

Furthermore, Paragraph 80 of the National Planning Policy Framework makes provision for isolated homes in the countryside where they are of exceptional or innovative design. However, it is not considered applicable in this case because the site is not 'isolated' taking into account recent appeal decisions. In addition, the design of the dwelling is not considered to be exceptional, in that it is not considered to be truly outstanding or innovative. The proposal therefore, conflicts with Paragraph 80 of the National Planning Policy Framework.

The proposal is therefore contrary to policies 1, 2 and 3 of the South East Lincolnshire Local Plan and paragraph 80 and paragraph 134 of the National Planning Policy Framework.

2. The proposal by virtue of its scale, siting, and design, would not be in keeping with the character of the area. The proposal would result in a harmful appearance to the character of the streetscene, would be out of character with the surrounding area and would not make a positive contribution or provide an appropriate assimilation with the surrounding rural setting to which it is located.

In light of the above, the proposal would conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, which gives weight to protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. Furthermore, there is conflict with Section 12 of the National Planning Policy Framework, 2021, in that the proposal causes an unacceptable impact upon the character and appearance of the area, comprising an unsuitable incongruous and unsympathetic form of development for its rural setting/context. Paragraph 130 of the National Planning Policy Framework, 2021, states that planning policies and decisions should add to the overall quality of the area and be sympathetic to local character, including the surrounding built environment and landscape setting. Paragraph 174 states that planning policies and decisions should protect and enhance the intrinsic character and beauty of the countryside. there is clear conflict in this instance.

3. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

4. The determined plans are:

Application Form

249 PL-100

249 PL-102

249 PL-104

249 PL-105

249 PL-106

249 PL-107

249 PL-108

249 PL-109

249 PL-110

249 PL-111

249 PL-112

249 PL-113

249 PL-103 REV C

Planning Statement

Design and Access Statement by ADSDF Architects dated February 2023

Flood Risk Assessment by RM Associates dated February 2023

Preliminary Ecological Appraisal dated January 2023

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

