

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0164-19 **Applicant:** Mrs A Naylor
Proposal: Proposed development for a single chalet and garage to replace existing glasshouse
Location: Bank Farm Paddock Lane Holbeach Bank
Terminal Date: 3rd 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
28	The Natural Environment
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2019

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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE	0	0	0	1

BOARD				
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Outline planning permission is sought for a single chalet and garage with all matters reserved for subsequent approval. An existing glasshouse on the site would be demolished.

Description

The site is part of a former nursery off Paddock Lane, Holbeach Bank. It is currently occupied by glasshouses. A chalet and detached outbuilding are situated to the north (No 1 Paddock Lane) and paddocks to the west. Open land is located to the east and south.

Policies/Constraints

The site is outside a settlement boundary as defined in the South East Lincolnshire Local Plan (adopted March 2019).

Representations

Holbeach Parish Council - No response

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

SHIDB - Request drainage strategy.

Environmental Protection - Request full land contamination condition at this location.

LCC Archaeology - No archaeological impact.

Public (summarised):

Objection received: Site in open countryside and not a rural exception site; Applicant does not own the roadway so cannot upgrade it; Rights of access do not include a new dwelling.

Material Planning Considerations

The main issues in this case are:

- Whether the site is in a sustainable location having regard to the development plan and other material considerations;
- The likely impact upon the amenity of nearby residents;
- Highway safety;
- Other material considerations such as flood risk and drainage.

Policy/Sustainability

Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

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 only 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 terms of the first element, it is considered that there is not sufficient justification for housing in this location. For example, it is not required by a rural worker.

Concerning the second element, it would not meet the sustainable development needs of the area in terms of economic, community or environmental benefits. Other than Holbeach Bank Academy (primary school), there are few services and facilities within walking distance of the appeal site. The nearest settlements such as Holbeach that offer a wide range of services and facilities are not within a reasonable walking or cycling distance of the site.

Moreover, the proposal extends into the open countryside beyond the existing small cluster of residential properties within the immediate area. The site is currently agricultural in nature. The proposal would alter the present agricultural character of the site and domesticate it. The proposal would erode the present rural feeling on the edge of the settlement, to the detriment of the prevailing rural character of the area.

Consequently, the proposed development would not provide a sustainable location for housing on environmental grounds. It would therefore conflict with Policies 1 and 2 of the SELLP. Policy 2 indicates that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

The above policies are consistent with advice within the National Planning Policy Framework, 2019. 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.

Residential Amenity

A chalet is located to the north (No. 1 Paddock Lane). The roadway passes alongside this property. However, fencing is located on the common boundary. 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.

Highway Issues

Access is via Paddock Lane which is a private roadway. LCC Highways has been consulted and does not wish to restrict the grant of permission on highway safety grounds. Concerns have been raised over ownership and vehicular rights of way. Whilst these issues are essentially civil matters vehicular access could be addressed by means of a condition if permission was forthcoming.

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 predominantly within an area identified as "Danger to Some". It is possible for new housing to be delivered on sites that are in locations that are more environmentally sustainable and of lower flood risk. The proposal therefore fails to satisfy the sequential test. It is considered that the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to Policies 2 and 4 of the SELLP and advice within paragraph 158 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.

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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The site is located outside a Settlement Boundary as defined in the South East Lincolnshire Local Plan (SELLP), March 2019. For the purposes of the SELLP, the site lies within the countryside.

It is considered that there is not sufficient justification for housing in this location. There are a limited number of services and facilities within walking distance of the appeal site. The nearest settlements such as Holbeach that offer a wide range of services and facilities are not within a reasonable

walking or cycling distance of the site. Also, the proposal extends into the open countryside beyond an existing small cluster of residential properties within the immediate area. The site is currently agricultural in nature. The proposal would alter and domesticate the present agricultural character of the site. It would erode the present rural feeling on the edge of the settlement, to the detriment of the prevailing rural character of the area.

Consequently, the proposed development would not provide a sustainable location for housing on environmental grounds. It would conflict with Policies 1 and 2 of the 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. Policy 2 indicates that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses.

The above policies are consistent with advice within the National Planning Policy Framework, 2019. 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.

Moreover, the proposal fails to satisfy the sequential test in terms of flood risk.

Recommendation - That the application be refused under delegated powers.