DECISION DELEGATED TO DEVELOPMENT MANAGER

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| **Application No:** | **H09-0209-20** | **Applicant:** | **Mr & Mrs Swepstone** |
| **Proposal:** | Conversion and change of use of factory and office building to form 8 new dwellings, laying out of private and communal gardens, car parking, cycle and bin storage areas, and ancillary development. | | |
| **Location:** | 115-119 Battlefields Lane North Holbeach Spalding | | |
| **Terminal Date:** | 28th April 2020 | | |

**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 |
| 07 | Improving South East Lincolnshire's Employment Land Portfolio |
| 10 | Meeting Assessed Housing Requirements |
| 11 | Distribution of New Housing |
| 12 | Reserve Sites |
| 23 | The Reuse of Buildings in the Countryside for Residential Use |
| 30 | Pollution |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2019**

Sections 2, 3, 4, 5, 6, 9, 11, 12, 14 and 15

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| PARISH COUNCIL | 0 | 1 | 0 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 0 |
| PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT | 0 | 0 | 0 | 1 |

| | | | | |
|---|---|---|---|---|
| SHDC INTERNAL | 1 | 0 | 0 | 0 |
| OTHER STATUTORY BODIES | 1 | 0 | 0 | 0 |
| RESIDENTS | 1 | 0 | 0 | 0 |

## CASE OFFICER ASSESSMENT

### Proposal

Full planning permission is sought for a conversion and change of use of factory and office buildings to form 8 new dwellings, including the laying out of private and communal gardens, car parking, cycle and bin storage areas, plus ancillary development.

The application is accompanied by a Planning Statement and Flood Risk Assessment.

### Site Description

The site (some 0.54 ha) is a triangular piece of land with existing trees/hedging along its perimeter. It is occupied by industrial buildings that are presently vacant. They were formerly used by Swepstones Ltd (pie manufacturers and suppliers).

A row of semi-detached houses are situated to the north-east along Battlefields Lane North. Agricultural land is situated opposite and the A17 to the south.

### History

H09-0863-17 - Residential development (7 plots) including demolition of existing site buildings - Refused.

### Consultation Responses

Holbeach Parish Council - Supported

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

SHDC Environmental Protection - Recommend desk top study prior to determination or, alternatively, a contaminated land condition.

Environment Agency - This proposal comes under cell E8 of the local flood risk standing advice.

Public - Objections received from resident (summarised):
No change since previous refusal; Proposed dwellings not in keeping with the surrounding area.

### Planning Considerations

The main issues in this case are:
- Policy/sustainability;
- Amenity;
- Highway safety;
- Other material considerations such as flood risk, drainage and contamination.

Policy/sustainability

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

SELLP Policy 1 directs new development to within settlement boundaries. It also indicates 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.

With regards to the first element, it has not been demonstrated that the proposal is necessary or suitable in this countryside location, for example with regards to specific housing needs. The proposal is therefore not supported by the locational requirement of Policy 1.

With regards to economic benefits, Policy 7 of the South East Lincolnshire Local Plan, 2019, indicates that a change of use of existing employment sites should only be considered if the loss would not adversely affect economic growth/employment opportunities, the site is inappropriate or unviable for any employment use and the applicant has provided clear documentary evidence that the property has been appropriately marketed for a period of at least 12 months. This policy is consistent with advice within the National Planning Policy Framework, 2019. Paragraph 8 indicates that achieving sustainable development means that the planning system has an economic objective to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity. Paragraph 80 indicates that planning policies should help create conditions in which businesses can invest, expand and adapt, with significant weight placed on economic growth.

The application form indicates that the present use falls within Class B1 (Business). The supporting statement indicates that the premises have been marketed for 2 years as a going concern and not for a wider business/industrial use. Section 5 of the statement indicates that an offer was in fact received, albeit "derisory". Notwithstanding other properties currently on the market, this specific site may be attractive to other business or industrial uses which would generate employment and investment. There is presently no substantive evidence that this specific site cannot continue to be used for some form of business or industrial activity. It is therefore considered that the loss of this business premises may lead to harm to the economy of the area. This approach is consistent with the view taken by the Inspector in relation to a recent appeal decision relating to loss of a garden centre on another site close to Holbeach (Appeal Ref: APP/A2525/W/19/3229241).

With regards to environmental benefits, the buildings presently have a commercial appearance not untypical to other industrial buildings within the area. The principal building has some interesting detailing on its front elevation. Although the conversions would be ingenious they would give the site a domestic appearance that would appear incongruous beside the brickwork of nearby houses, to the detriment of the character and appearance of the locality. Paragraph 127 of the Framework stresses that planning policies and decisions should ensure that new development is sympathetic to local character and history, including the surrounding built environment.

With regards to social/community benefits, it is accepted that the proposal would represent a windfall site which could be built-out relatively quickly and which would add to the supply of housing in the area. However, the Authority is able to demonstrate a suitable supply of housing land, even allowing for the buffer required by the Government's Housing Delivery Test. Consequently, the supply of housing that would result from the proposal can only be given limited weight.

Further, whilst the site is not isolated and is within a 2km walking distance of services and facilities in Holbeach, it is physically divorced from the settlement by virtue of being on the northern side of the busy A17, which is a major arterial route through South Lincolnshire. It is not readily accessible to existing local services and facilities other than by a motor vehicle. In locational terms therefore, it is not considered to be appropriate for housing.

The above view is consistent with a recent appeal decision on land directly opposite (Appeal Ref: APP/A2525/W/18/3218958). The Inspector took the view that the A17 was a significant barrier to movement and that "the existing arrangements do not create a particularly pedestrian friendly environment in which to cross the road. Indeed, for anyone unable to scamper across the road it

strikes me that this is a particularly intimidating road to cross". He goes on to stress that "the volume and nature of traffic using the road, which is subject at this point to the national speed limit, was an overpowering and intimidating presence ..... the presence of the A17 would act as a significant deterrent to all but the most determined pedestrian, and would certainly do so to those with young children or less mobile. Moreover, the relatively narrow central refuge would also in my judgement act as a deterrent to accessing Holbeach by bicycle, even if once across the cycle journey would be relatively straightforward".

The Inspector concludes by stating that "that the nature of the A17 is likely to be a significant factor in discouraging access to/from the site by foot or cycle. In discouraging access on foot and by bicycle, and in the absence of any detail regarding public transport links, I consider that it would be highly likely that residents would have little option other than to resort to travelling by car to Holbeach, despite its relative proximity to the appeal site".

It is therefore considered that the proposal fails to meet the sustainable development needs of the area in terms of economic, community and environmental benefits. It conflicts with Policies 1, 2, 3 and 7 of the South East Lincolnshire Local Plan, 2019. These policies are consistent with advice within paragraphs 7, 8 and 11 of the National Planning Policy Framework, 2019, which indicates that the purpose of the planning system is to contribute towards the achievement of sustainable development and building a strong economy.

Policy 23 of the SELLP indicates that proposals for the conversion of existing buildings which are located outside defined settlement boundaries to residential use will be permitted provided that:
1. the building is structurally sound and capable of conversion without the need for significant extension, alteration or rebuilding;
2. the building is of architectural or historic merit or makes a positive contribution to the character of the landscape, to justify conversion to ensure retention;
3. the proposal is in keeping with its surroundings;
4. the design is sympathetic to the character and appearance of the building in terms of architectural detailing and materials of construction; and
5. development leads to an enhancement of the immediate setting of the building.

The objectives of this policy include the retention of redundant rural buildings such as brick built barns that make a significant contribution to the character of an area. The explanatory text indicates that not all buildings in the countryside are suitable for conversion because they may, for example, be of poor design and not in keeping. This policy is consistent with the general approach taken in respect of conversions in the countryside and advice within paragraph 8 of the Framework relating to sustainability and the need to protect and enhance the historic environment. It is therefore considered to be up-to-date and paragraph 11d) of the Framework is not therefore relevant.

It is considered that the proposal does not comply with the above policy because the buildings are not of architectural or historic merit or make a positive contribution to the character of the landscape to justify conversion to ensure retention. Moreover, the buildings presently have a commercial appearance not untypical to other industrial buildings within the area. Although the conversions would be ingenious they would give the site a domestic appearance that would appear incongruous beside the brickwork of nearby houses, to the detriment of the character and appearance of the locality. Consequently, it would not constitute an enhancement.

Paragraph 79 of the National Planning Policy Framework, 2019 indicates that planning decisions should avoid new isolated homes in the countryside, unless there are exceptional circumstances. They include c) the re-use of redundant or disused buildings where the development would enhance the immediate setting.

Firstly, it needs to be assessed whether the proposal falls within paragraph 79. It cannot be applied if the dwelling is not isolated. The word isolated is not defined in the Framework. However, in Braintree District Council v SSCLG & Ors (2017) the judge found that "isolated" should be given its ordinary meaning of "far away from other places, buildings or people; remote". The Appeal Court Judge held that isolated "simply connotes a dwelling that is physically separate or remote from a settlement". He goes on to stress that this is "a matter of fact and planning judgment for the decision-maker" in the particular circumstances of the case in hand.

Therefore to qualify for consideration under this paragraph, the proposal must be an isolated home in the countryside. It is considered that this site, whilst within the countryside, is not sufficiently 'remote' to engage this paragraph. There are existing residential properties nearby. It is also close

to the busy A17. Consequently, Paragraph 79 is not engaged.

Even if paragraph 79 was applicable, the existing buildings are not considered to be redundant and could be brought back into use for a business or industrial purpose. It is also doubtful whether the proposal could be seen as an enhancement for the reasons already discussed.

Residential Amenity

Semi-detached houses are situated to the north-east and the A17 to the south beyond a wide tree lined verge. The relationship of the buildings to nearby dwellings is such that the amenity of nearby residents would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, noise and disturbance, etc.

Given the location of the A17 to the south it is recommended that an acoustic assessment be carried out to protect the amenity of future occupiers. This could be addressed by means of a safeguarding condition if permission was forthcoming.

The proposal satisfactorily complies with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 in this respect, subject to mitigating conditions.

Highway Safety

Vehicular access to the site is via Washway Road and not directly from the A17. Satisfactory on site parking has been provided. LCC Highways does not wish to restrict the grant of permission on highway safety grounds.

The proposal satisfactorily accords with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan, 2019 in terms of highway and parking issues.

Flood Risk

The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. However, 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

The SFRA indicates that the site is within an area identified as "Danger to Some". There are reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding. In this respect, the Authority views reasonably available sites as those that are deliverable and developable (as defined by the National Planning Policy Framework) for the use proposed within the area, can accommodate the general requirements of the development and are, in principle, in conformity with the objectives and advice within the NPPF and its associated National Planning Practice Guidance relating to sustainable development and flood risk. Housing sites have been identified within the South East Lincolnshire Local Plan, 2019, and the Authority currently has a 5 year land supply.

If the view was taken that there are not reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding the exceptions test should be applied. It is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

The NPPF and the PPG set out two elements to the Exceptions Test. First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

In terms of the first element, it is considered that the proposal would not provide wider sustainability benefits that would outweigh flood risk due to the economic, social and environmental harm that it would cause. The proposal is not therefore in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 14 of the National Planning Policy

Framework, 2019.

## Conclusion

Whilst the proposal would add to the supply of housing in the area, the Local Planning Authority is able to demonstrate a 5 years supply of housing land, even allowing for the buffer required by the Government's Housing Delivery Test. Consequently, the supply of housing that would result from the proposal can only be given limited weight. It is outweighed by the harm that the proposal would cause in terms of other economic, community and environmental factors.

In terms of the above, it has not been satisfactorily demonstrated that this site cannot continue to be used for some form of business or industrial activity. It is therefore considered that the loss of this business premises may lead to harm to the economy of the area. Further, although the site is within a 2km walking distance of services and facilities in Holbeach, it is physically divorced from the settlement by virtue of being on the northern side of the busy A17, which is a major arterial route through South Lincolnshire. It is not readily accessible to existing local services and facilities other than by a motor vehicle. Moreover, the buildings presently have a commercial appearance not untypical to other industrial buildings within the area. Although the conversions would be ingenious they would give the site a domestic appearance that would appear incongruous beside the brickwork of nearby houses, to the detriment of the character and appearance of the locality.

It is therefore considered that the proposal fails to meet the sustainable development needs of the area in terms of economic, community and environmental benefits. It conflicts with Policies 1, 2, 3 and 7 of the South East Lincolnshire Local Plan, 2019. These policies are consistent with advice within paragraphs 7, 8 and 11 of the National Planning Policy Framework, 2019, which indicates that the purpose of the planning system is to contribute towards the achievement of sustainable development and building a strong economy.

Furthermore, the proposal is not considered to be in accordance with Policy 23 of the South East Lincolnshire Local Plan, 2019 and advice within paragraph 79 of the National Planning Policy Framework, 2019. The objectives of Policy 23 include the retention of rural buildings such as brick built barns that make a significant contribution to the character of an area. Explanatory text indicates that not all buildings in the countryside are suitable for conversion because they may, for example, be of poor design and not in keeping. This policy is consistent with the general approach taken in respect of conversions in the countryside and is in accordance with advice within paragraph 8 of the Framework relating to sustainability and the need to protect and enhance the historic environment.

The proposal fails to comply with Policy 23 because the buildings are not of architectural or historic merit or make a positive contribution to the character of the landscape to justify conversion to ensure retention. Moreover, the conversion is not wholly sympathetic with the existing industrial character of the site and buildings.

Paragraph 79 of the Framework is not applicable in this case because the site is not isolated. In any case, the existing buildings are not redundant and could be brought back into use for a business or industrial purpose. Moreover the proposal is not considered to an enhancement for the reasons already addressed.

In terms of flood risk, the site is within Flood Zone 3 on the Environment Agency Maps and within an area identified as "Danger to Some" within the South East Lincolnshire Strategic Flood Risk Assessment. The sequential test should therefore be applied. In this respect there are reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding. Such sites have been identified within the South East Lincolnshire Local Plan, 2019, and the Authority currently has a 5 year supply of housing land. Moreover, the proposal fails the exceptions test because it would not provide wider sustainability benefits that outweigh flood risk due to the economic, social and environmental harm that it would cause. The proposal is not therefore in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 14 of the National Planning Policy Framework, 2019.

It is noted that Holbeach Parish Council has supported the scheme. However, no specific reason has been given. Consequently there is no requirement for the application to be referred to Chairman's Panel under the present delegation arrangements. It is therefore recommended that the application be refused under delegated powers.

## 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.