

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0496-24 **Applicant:** Mr D Ling

Proposal: Demolition of agricultural barn and erection of two dwellings - approved under H09-0021-23. Modification of Condition 2 to allow amendments to previously approved plans

Location: Rosedale Chapel Drove Holbeach Drove

Terminal Date: 8th August 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2. Achieving sustainable development.
Section 5. Delivering a sufficient supply of homes.
Section 9. Promoting Sustainable transport.
Section 12. Achieving well-designed and beautiful places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.
Section 15. Conserving and enhancing the natural environment.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The site has full planning permission for the demolition of an existing agricultural building and erection of 2 no. 5-bed 2-storey detached dwellings (ref. H09-0021-23). An application was subsequently approved under S73 to modify the scheme (ref. H09-0740-23). This application is for relatively minor additional alterations, including revised external materials, the addition of an en-suite window to bedroom 2, an alternative front door and addition of a flue within the roof to serve a stove in the living area.

It should be noted that the site also has prior approval for a change of use of existing agricultural buildings into 4 dwellings under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (ref. H09-0548-22).

Site Description

The site was formerly occupied by an agricultural building (now demolished) within a farmyard on the western side of Chapel Drive.

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

Planning History

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

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

H09-0739-23 - Cond Comp - Details of landscaping, foul and surface water disposal, contamination of land or pollution of controlled waters & ecological biodiversity measures (Conditions 3, 6, 8 and 11 of H09-0021-23) - Withdrawn 12 January 2024.

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

H09-0447-24 - NMA - Demolition of agricultural barn and erection of two dwellings - Approved under H09-0740-23. Amendment to external materials & addition of en-suite window to bedroom 2 - Withdrawn 5 June 2024.

Consultation Responses

Holbeach Parish Council

No objections.

LCC Highways/SUDs

Request additional information re: access.

South Holland Internal Drainage Board

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.

Environmental Protection

Request a standard land condition be applied for this location. This was requested in the previously approved application of H09-0021-23.

Public

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

Key Planning Considerations

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The Planning Practice Guidance, under Paragraph 31, details this further by stating that "In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application - it is not a complete re-consideration of the application".

For the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and reinstate the conditions imposed on earlier permissions that continue to have effect.

Taking all of the above into account, the Local Planning Authority are content that the proposed amendments can be considered under a variation application, via a Section 73 application.

In light of the above the main issues are whether the proposed alterations are acceptable in terms of design/appearance and the likely affect upon the amenity of neighbouring residents.

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan (SELLP) 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Design/Appearance

Policy 2 of the South East Lincolnshire Local Plan (SELLP), 2019 states that sustainable development considerations should be met in relation to such matters as quality of design, size, scale, layout density and impact on the character and appearance of an area and the relationship to existing development. Policy 3 indicates that development proposals should be high quality and be appropriate to the character and appearance of an area.

These policies accord with the provisions of the National Planning Policy Framework (December 2023) and require 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.

Section 12 of the Framework specifically relates to 'achieving well-designed and beautiful places' and details that "the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135 of the Framework states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. It should also be sympathetic to local character and history, including the surrounding built environment and establish a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live.

The proposal includes the use of Old Farmhouse Multi Red brick with Marley Plain roof tiles (Antique Brown). The proposed alterations to the external appearance of the building are considered acceptable and in accordance with Policies 2 and 3 of the SELLP.

Amenity

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

The site is presently part of an existing farmyard, which would be retained to the north-east. To protect the amenity of future occupiers it is recommended that 1.8m metre high closeboarded fencing be erected along the north-eastern boundary.

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

The dwelling has an additional en-suite window on its south-western elevation facing plot 2. The latter has similar on its north-eastern elevation at first floor level (ref. H09-0059-24). It is considered that the proposed alterations would not materially harm the amenity of neighbouring residents in terms of overlooking, lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc.

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

Other Matters

Highway Safety

LCC Highways has requested additional information concerning the access, etc. However, the access has already been approved (ref. H09-0740-23), with the County Highways Authority raising no objections. This application is solely for relatively minor alterations to the design/appearance of the dwelling under S53. The information cannot therefore be requested at this stage. However, a note was previously attached advising that the permitted development requires the formation of a new/amended vehicular access and that the works require approval from the Highway Authority in accordance with Section 184 of the Highways Act. This should be included again on any consent.

Contamination

The previous application (ref. H09-0740-23) was accompanied by a Geo-Environmental Desk Study which indicated that the need for a Phase II intrusive investigation was unwarranted. Environmental Protection were in general agreement with the findings and had no further comments to make. A note was previously included regarding unexpected contamination and should again be included on any consent.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The application is for revisions to the design/external appearance of the dwelling under S73. The proposed alterations are considered acceptable in terms of character/appearance and their impact upon the amenity of neighbouring residents. Under matters such as highway issues are not under consideration as part of this application. Contamination has previously been addressed.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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.

Conclusion

The proposal satisfactorily complies with development plan policy and advice within the National Planning Policy Framework, December 2023. There are no significant factors in this case that indicate against the proposal and outweigh the considerations in favour of the proposal and the policies referred to within the development plan as a whole.

Recommendation

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