

Application No:	H09-0575-22	Applicant:	Mr D & A Rulewski
Proposal:	Erection of four detached dwellings, one detached garage and demolition of existing bungalow - re-submission of H09-1094-21		
Location:	47 Low Lane Holbeach Spalding		
Terminal Date:	29th May 2023		

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	1	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	2	0	0	1

PROPOSAL

Full planning permission is sought for the erection of four dwellings, one detached garage and the demolition of an existing bungalow. The plot layout is as follows:

Plot 1: 4-bedroom house with attached double garage;
Plot 2: 5-bedroom house with attached double garage;
Plot 3: 5-bedroom house with attached double garage;
Plot 4: 4-bedroom house with a detached single garage.

The current application shows a two storey house on Plot 1, which projects approximately 8.7 metres beyond the main rear wall of a neighbouring property, The Chestnuts, set in 2.3m from the boundary between the two properties. The design of Plot 1 shows a corner hipped roof. The overall dimensions of the two storey house on Plot one are:

-15.570m in length (western elevation)
-14.185m wide (southern elevation) and 8.4m high to highest part of the ridge.
-5.6m to the eaves, with a rearward projecting element ridge height of 7.7m

This application is accompanied by an Amenity Impact Assessment dated 30 May 2022 and a Daylight, Sunlight and Overshadowing Study Neighbouring Property Assessment dated 27 May 2022, a Flood Risk Assessment with appendices and a Design and Access Statement.

The external brickwork would consist of red multi-stock facing bricks, the roof tiles would be mixed colour pantiles (colour to be confirmed), windows would be UPVC & Aluminium. The boundary treatment would be retained mature hedging and a mixture of timber fencing, brick walls, and metal railings. The vehicle access would be permeable block paving and gravel. Parking would be for 12 cars.

SITE DESCRIPTION

The site is located within the built-up area of Holbeach and is part of the north-eastern edge of the town. The area is predominantly residential, comprising a range of house types, ages, design and appearance. This is a 'backland' site, but not the only site of this nature.

The site currently hosts a large bungalow (No. 47) with a sizeable garden mainly laid to grass. It is served by a private roadway running between Nos. 45 and 49 which fronts Low Lane. Immediately to the west there is another access roadway which serves three detached dwellings (The Chestnuts, Rosella and The Willows) also occupying 'backland' positions. The Chestnuts, which is a large house, adjoins the main part of the site along the western boundary.

No. 45a is located to the north and is a large two-storey detached house that backs onto No. 45 and which obtained full planning permission in 2013 (application ref. H09-0664-13). It is a few metres to the north of No. 47. There is no means of enclosure between the two properties. Number 45a is under the ownership of the applicant.

A drain borders the southern boundary of the site. The eastern and southern boundaries of the site are defined by a mature conifer hedge between 4 to 8 metres high.

Fencing presently runs along the side boundary of The Chestnuts immediately to the west at 1.8metres. Crab Apple and ornamental pear trees exist along this boundary. Approximately 9 to 10 metres beyond the rear main wall of The Chestnuts, in the rear part of the garden of the application property, is a cluster of dense mature conifer trees. The Chestnuts have habitable rooms closest to the boundary at both the upper and lower floor. Both ground and

first floor rooms have windows in clear glass set in 1 metre from the flank edge of the property, at 1.2m in width, with a glazed area of 1m inside the frames. The Chestnuts is set in 0.88m in from the boundary fence at its closest flank wall in relation to the fence. At ground floor level, the habitable room nearest the boundary is a small study, at first floor level the habitable room is a large family room which operates as a lounge, which extends along the entire flank of the house, and is dual aspect. A smaller lounge also exists on the western part of the house at ground floor, however, - the existing use of the upper floor closest to the boundary is that of a much larger family room/lounge, which is classed in planning terms as a habitable room.

RELEVANT PLANNING POLICIES

The Development Plan

South East Lincolnshire Local Plan, March 2019 ("SELLP 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) of the Planning and Compulsory Purchase Act 2004 requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The relevant development plan policies include:

- 01. Spatial Strategy - complies
- 02. Development Management - complies
- 03. Design of New Development - complies
- 04. Approach to Flood Risk - complies
- 10. Meeting Assessed Housing Requirements - complies
- 11. Distribution of New Housing - complies
- 17. Providing a Mix of Housing - complies
- 28. The Natural Environment - complies
- 30. Pollution - complies
- 31. Climate Change and Renewable and Low Carbon Energy - complies
- 32. Community, Health and Well-being - complies
- 36. Vehicle and Cycle Parking - complies
- APPENDIX 6 Parking Standards - complies

National Guidance

National Planning Policy Framework, 2021 ("NPPF")

- Section 2: Achieving sustainable development
- Section 3: Plan Making
- Section 4: Decision-making
- Section 5: Delivering a sufficient supply of homes
- Section 8: Promoting healthy and safe communities
- Section 9: Promoting sustainable transport
- Section 11: Making effective use of land
- 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

Paragraph 130 of the NPPF, 2021 states that decisions should ensure that developments add to the overall quality of the area, are visually attractive and are sympathetic to the local character. Paragraph 134 of the NPPF goes on to state that development that is not well designed should be refused.

Planning Practice Guidance (PPG)

RELEVANT PLANNING HISTORY

H09-0801-20 - Erection of four detached two-storey dwellings, two detached garages and demolition of existing bungalow - Approved 25th February 2021[]

H09-0511-21 - Details of landscaping, maintenance measures for existing hedge along eastern & southern boundaries, landscape and site management plan, boundary treatment and means of foul & surface water disposal (Conditions 4, 5, 6, 7 & 9 of H09-0801-20) - Approved 3rd August 2021.

H09-1094-21 - Erection of four detached dwellings, 1 detached garage and demolition of existing bungalow - refused on 25-05-22. The appeal was allowed on the 18th May 2023 subject to conditions.

REPRESENTATIONS

H09-0801-20 - Erection of four detached two-storey dwellings, two detached garages and demolition of existing bungalow - Approved 25th February 2021[]

H09-0511-21 - Details of landscaping, maintenance measures for existing hedge along eastern & southern boundaries, landscape and site management plan, boundary treatment and means of foul & surface water disposal (Conditions 4, 5, 6, 7 & 9 of H09-0801-20) - Approved 3rd August 2021.

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Holbeach Parish Council

Consider the application overdevelopment of the site.

Lincolnshire County Council Highway Authority and Lead Local Flood Authority

Have no objections subject to the imposition of conditions.

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 subject to compliance with the Condition and advice above, the proposed development would not be expected to have an unacceptable impact upon highway safety and does not wish to object to this planning application.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage on all Major Applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the drainage proposals for this planning application.

South Holland Internal Drainage Board

No objections.

Cllr F Biggadike

"Impressed by the detail provided to overcome previous application concerns regarding overlooking and loss of light, surface water disposal, entrance and road details to the property."

Public

Three neighbouring households objected to the application (one objection was submitted multiple times) which raise some or all of the following objections and have been summarised below:

- recent planning history of site.
- allowance of resubmission
- does not meet 2 and 3 of SELLP
- Contrary to SPD
- design and layout
- layout and form
- density
- contrary to national and local policy
- plot 1 in relation to The Chestnuts
- sense of enclosure (overbearing impact)
- effect on amenity, privacy (outlook), loss of outlook, noise
- flood risk
- effect on Daylight and sunlight and overshadowing
- unmaintained leylandii hedging on boundary. Concerned about height. Wants to put forward a sensible proposal about an acceptable height. Applicants suggest 4.5m.
- not seen anything protecting the conifers to the south of site. There was protection of trees being cut down to only a certain height in previous applications. If trees removed there would be loss of privacy. Needs to be guarantees in place over height of trees. What is in place to stop the new residents cutting down these trees?
- council should only allow bungalows to be built on this site, very few in area, proposal will demolish another one. Would be no issues with overshadowing then, also people with mobility issues unable to access two stories. Area becoming less accessible to physically disabled. Only some neighbours can object.
- Noise concerns, potentially 22 residents and 12 cars. Will be Noisy overlooked house.
- Impacts on drainage increased, area has sewerage issues when raining, and smelly drains.
- Cumulative effect on housing approved in Battlesfields Lane.

CONSIDERATIONS

Planning Considerations

Reason for Delegated Decision

The scheme was originally due to be considered by Planning Committee. However, this scheme is a resubmission of a very similar scheme which was previously refused planning permission under reference H09-1094-21. This appeal was allowed on the 18th May 2023 by the Planning Inspectorate. The two cases are so similar and differ only in terms of set in difference of Plot 1 being 2.3m rather than 2.25m (which is slightly greater in the current case) and a hipped roof design to Plot 1 (which was a gable in the appealed scheme). The two schemes are so similar that it is no longer expedient for Planning Committee to now consider this scheme, given that the very small changes are slightly more favourable on the adjoining property compared with the appealed scheme which is now extant and can be built subject to conditions. It is logical to now determine the case taking into account the appealed

scheme under delegated authority.

Principle

Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination of planning applications must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is inside Holbeach Settlement Limits as defined in the SELLP, 2019. Policy 1 indicates that within the settlement boundaries of the Main Service Centres, including Holbeach, development will be permitted. There is no conflict with the proposals therefore on locational grounds.

The approval of the previous planning application, H09-0801-20, allowed appeal (APP/A2525/W/22/3309266 - Ref: H09-1094-21) dated 18 May 2023 establishes the principle of four dwellings in this backland location.

There is therefore no objection to the principle of development of four dwellings on the site, and as such the proposal is not in conflict with Policy 1 of the SELLP.

Design, Scale and Layout

Policies 2 and 3 of the SELLP seek to ensure that development respects the character and appearance of the area and are appropriate in terms of design, scale and layout.

The layout shows three plots along the southern site boundary facing north and one adjacent to number 45a facing west. There are now two extant permissions (H09-0801-20 and allowed appeal H09-1094-21) that approved four dwellings on the site. The design of the proposals are similar to the approved schemes and considered acceptable. Whilst some objections were raised due to overdevelopment and design, refusal on this basis is not reasonable given the planning history.

Other concerns related layout issues, density, lack of definition and turning areas and the cramped nature of the scheme. Each plot has a reasonable amount of rear garden space, internally the properties are well spaced between each plot and each other. The density of the proposed development is considered to be acceptable as it reflects the character of properties in the area. Other properties in the vicinity have much more restricted amenity space and limited front gardens (for example, the properties fronting Low lane on the northern side). The Local Highway Authority has not raised an objection in relation to parking or turning within the plots due to limited front garden space. .

One objector cited damage to the entry point to their access from Low Lane as posts have been damaged by various visitors and vehicles. This is not a planning matter. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. The Local Highways Authority does not raise an objection on highways grounds and therefore refusal would not be reasonable on this aspect.

Concerns were raised that proposals were visually unattractive and should be single storey. The proposed dwellings would be two-storey, detached houses with external facing brickwork consisting of red multi-stock facing bricks, pantile roof (colour to be confirmed), external openings UPVC and aluminium (colour to be confirmed). Given the variety of properties in the locality, the design and external appearance of the proposed dwellings is considered to be acceptable, and not visually unattractive. A condition is

suggested to secure further details associated with appearance. In allowing the appeal under reference H09-1094-21 the Inspector stated that "I am unpersuaded that an unacceptably cramped or unduly high density development is proposed in the context of the site's immediate and wider surroundings." As a result restricting development to single storey only would be unreasonable given the context of two extant permissions for two storey.

This application differs from the allowed appeal (H09-1094-21) in terms of the roof style of Plot 1 is a corner hip rather than a gable. The set in distance from the boundary is also 2.3m in from the boundary rather than 2.25m in the allowed appeal. From a design perspective in relation to the elevation, the proposal in comparison with the allowed scheme is acceptable and would reflect the style of Plot 4 and other neighbouring properties in the vicinity. The effect in terms of amenity would be reduce the impact on the neighbour compared with the allowed scheme very slightly.

In terms of scale, design and layout, the proposed development would not materially harm the character and appearance of the locality and satisfactorily complies with Policies 2 and 3 of the SELLP.

Impact on Neighbouring Amenity

Policies 2 and 3 of the SELLP 2019 relate to residential amenity and the relationship to existing development. They are consistent with advice within the NPPF. Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

The main concerns in relation to the proposal relates to the relationship of plot 1 and The Chestnuts.

The dwelling on plot 1 is a four-bedroom house of an inverted 'L' shaped layout with gables on the north and east elevations and a corner hip on the south-west corner. The majority of the two-storey element would extend beyond the rear wall of The Chestnuts to the west by 8.7m. The proposed dwelling would be set in approximately 2.3m from the boundary with the roof sloping away from this boundary. The eaves of Plot 1 would measure approximately 5.6m in height. The ridge of the roof of Plot 1 would be approximately 8.4m in height and would be approximately 4.7m from the boundary at its closest point. The Chestnuts is oriented just west of due south and has a number of openings on its rear elevation, the nearest of which are associated with a study and utility at ground floor level and a family room at first floor level which contains sofas, a large screen TV, a computer desk and domestic storage. A smaller, ground floor lounge is located on the western side of the building. The kitchen is adjacent to the utility room in the centre of the building at ground floor level. As part of the proposal, a number of existing garden trees comprising of thick conifers, set approximately 9 to 10 metres rearward of the rear main wall of The Chestnuts within the application would be removed.

Part of the submissions to this application relate to analysis associated with sunlight and daylight according to BRE guidelines. This was considered in detail in the appeal associated with H09-1094-21.

Sunlight and Daylight

An objector states in detail that The Chestnuts will suffer loss of sunlight and daylight, particularly in the morning, and states will be devastating for his family. He submitted his own data on light within his family room, and considers the BRE should have undertaken a re-calculation of the sunlight and daylight tests.

In the allowed appeal the Inspector stated:

"Having undertaken my own inspections both internally and externally and considered all related evidence before me, I am content that no unacceptable loss of sunlight or daylight would occur for the occupants of The Chestnuts."

The similarity of the allowed appeal and the current case is material. It is accepted that loss of sunlight and daylight calculations have been comfortably met by the BRE guidance.

Taking this into account, together with the hipped roof design of Plot 1, the verification from BRE that the aspects of submissions relating to sunlight and daylight accord with BRE guidelines, the existing of trees close to the boundary with The Chestnuts casting a shadow at the present time, and the general orientation of plot 1 and The Chestnuts facing generally south, it is considered, that there is not sufficient reason to refuse the application on the grounds of loss of daylight/sunlight on the neighbouring property of The Chestnuts. The proposal accords with policies 2 or 3 of the SELLP 2019.

Loss of Outlook, Overbearing and Sense of Enclosure and Loss of Privacy

One objector states that Plot 1 would be overbearing, resulting in a sense of enclosure in terms of its sheer size and proximity to The Chestnuts. He states outlook to the east from The Chestnuts will be dominated by Plot 1.

The objection in terms of the impact upon The Chestnuts in terms of loss of outlook and view due to the size, massing, rearward projection have been taken into account. These aspects were put forward in detail by the case officer during the recent appeal.

A first floor window, ground floor utility room door, study window and garage door are proposed on the western elevation of Plot 1 with fencing along the boundary. The rear bedroom windows of Plot 1 would overlook the rear section of the back garden of The Chestnuts at an oblique angle due to the both Plot 1. The patio area to the rear of The Chestnuts, and a secondary, smaller lounge is located on the western side of The Chestnuts (approximately 14m away).

In the appeal H09-1094-21, which was for a materially similar scheme, The Inspector considered the matter of overbearing, loss of outlook and an sense of enclosure. He stated that:

"It has been put to me...that Plot 1 would be overbearing and obtrusive when viewed from within the private garden of The Chestnuts (the rear garden) and from within nearest habitable rooms. Whilst a tall gable wall would address the rear garden for a not insignificant length, it would do so along only a part of the rear garden's eastern edge. Moreover, the rear garden covers a large area and is of often open composition to its fringes. In this context, whilst Plot 1 would be easily seen, I cannot find that it would be experienced as unduly overbearing or result in an unacceptable loss of outlook for users of the rear garden. Further, owing to its oblique positioning relative to the various south-facing window openings of The Chestnuts, nor would Plot 1 lead to an unacceptable loss of outlook from internal areas of this neighbouring property.

He goes on to state:

"I accept that eastward views from the rear garden are currently heavily influenced by existing planting, which includes the tree group and short row of fruit trees in place along the appeal site's western boundary. Although these soft planted features would be lost as part of the proposal, it must be noted that they are not protected and could be removed at any time

without planning permission. Moreover, whilst the proposal would undoubtedly influence outward views from the rear garden, any change in this sense would not equate to unacceptable planning harm."

On the issue of loss of privacy, he states:

"The potential for privacy to be lost due to the possible availability of views over the rear garden from the proposed utility room entrance to Plot 1 has been raised.When considered in conjunction with the planned installation of obscure-glazed west facing window openings [as well as boundary treatments] I am satisfied that neighbouring privacy would be suitably safeguarded."

Given that the allowed appeal is so similar to the current proposal, and in fact had a gable roof closer to the boundary than the hipped roof in this proposal, the issue of loss of outlook, overbearing, a sense of enclosure and a loss of privacy could now not justify a refusal now that the similar appeal has been allowed.

It is considered on balance that the amenity of neighbouring residents would not be materially and unacceptably harmed by the proposals. As such the proposal conforms with policies 2 and 3 of the SELLP, 2019 and the guidance within the NPPF, 2021 in terms of amenity.

Other Matters

One objector raises issues of viability. Viability is not material in this case and refusal on this basis is not justified.

One objector refers to the South East Lincolnshire Local Design Guide as a supplementary planning document and quotes page 55 from it. This document was never progressed beyond an initial draft, was not subjected to public consultation or scrutiny, nor was presented to the Council for adoption. The document has no planning status, and therefore cannot be used in decision making. Refusal on the basis of an unprogressed and unadopted planning document is not reasonable.

One objection raised concerns the legitimacy of the application and the allowance of a re-submission to the previous application. Planning Regulations allow re-submission of similar applications and this is not discretionary by the Local Planning Authority.

Noise concerns relating to the number of houses have been raised. A refusal on noise cannot be justified for residential development in this location, which was also reiterated by the Inspector in the allowed appeal. A condition is suggested to secure a construction management plan to address noise during construction disruption. It is not considered that the proposal conflicts with policy 30 of the SELLP which relates to pollution including noise.

Flood Risk and Drainage

The site is within Flood Zone 3a as per Environment Agency's Flood Map. According to South East Lincolnshire Strategic Flood Risk Assessment (March 2017), the flood depths would mostly range between 0.25m and 0.5m to 1m.

Section 14 of the NPPF 2021 is aimed to provide the appropriate framework to prevent inappropriate development within the highest flood risk areas and encourage the implementation of SUDs to mitigate the impact of flood risk. Policy 4 of the SELLP, 2019 transposes the national policies into the Local Plan.

A site-specific flood risk assessment has been submitted with this application. A Sequential Test and Exception Test have been applied and successfully passed. Extensive research on potential sources of flooding has been carried out. Calculations have been made on anticipated flood levels, taking into account climate change effects. A range of resilience measures have been consequently proposed, including the following:

- Finished ground floor levels shall be raised at 3.5m AOD.
- Flood resilient construction shall be incorporated in the buildings to a height of 300mm above ground floor level.
- Safe refuge would be provided at first floor level and future occupiers would be provided with an emergency plan for safe evacuation depending on prevailing conditions.
- Surface water run-off from the roofs of the proposed dwellings and detached garage should be discharged into soakaway crates. The infiltration system together with associated drainage should be designed to BRE Digest 365 and meet the requirements of Part H of the Building Regulations.
- Permeable block paving and gravel driveways with a suitable base to allow the surface water to permeate into the ground.

In light of the flood vulnerability of the development against such flood risk, it is considered that the resilience measures are acceptable.

Concerns have been raised about the increasing frequency of flooding events from surface water over the last years, together with impacts on drainage when it rains, sewerage problems and smelly drains. This has been reiterated by members of the public in the context of recent applications for residential development in the area. The Environment Agency anticipates low flood risk from surface water to the front of No. 45a and to the rear of No. 47. A condition to submit full details of proposed means of foul and surface water in line with the allowed appeal is suggested. It is not considered that drainage matters would justify a reason for refusal. The proposal is not considered to conflict with policy 4 of the SELLP.

Highway Safety

Policies 2 and 3 of the SELLP, 2019 indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking.

The existing private driveway serving the site is proposed to be improved by re-surfacing and widening to allow two-way vehicle movements. LCC Highways have indicated that its junction with Low Road has adequate visibility for drivers to enter safely onto Low Road. It is also proposed that the construction of the driveway would be permeable so as to not increase surface water flood risk to the site or to neighbouring properties. The Highway Authority has indicated that the access arrangements are unlikely to have an unacceptable impact upon highway safety.

Policy 36 of the SELLP (2019), Appendix 6 requires three spaces for dwellings with four or more bedrooms should be provided within the curtilage. Each plot has sufficient car parking provision in line with the aforementioned standards.

In terms of refuse collection, although the proposal doesn't accord with the Council's Guidance Note 'Private Drives - Waste Vehicle Collection Service' because of the length of the drive (greater than 30m) the site has two extant permissions for four properties (ref. H09-0801-20 and H09-1094-21). The Design and Access Statement indicates that refuse collections would be made from the head of the access drive at Low Lane from a designated location. A condition is suggested similar to the allowed appeal in this regard.

The proposal satisfactorily complies with Policy 36 and Appendix 6 of the SELP, 2019 in terms of highway safety.

Habitats and Biodiversity

Paragraph 180 of the NPPF, 2021 relates to biodiversity..

The mature high conifers would remain on the eastern and southern boundaries of the site. Concerns were raised in relation to the proposed landscaping and removal of a number of mature trees and issues relating the existing hedge heights. Other concerns relate to the unmaintained nature of the hedging on the boundary. Trees on site are not protected by virtue of being located in a Conservation Area, by Tree Preservation Order or by any planning conditions and could therefore be removed at any time without prior consent. In addition, the Inspector at the allowed appeal noted that "there are set procedures to follow outside of the planning process should any neighbouring occupier wish to instigate a complaint due to alleged loss of light to their property by virtue of a high hedge."

The hedging to the eastern and southern boundaries are to be retained and it is understood that the height will be maintained at 4.5m. It is acknowledged that one resident wished hedging to be retained to maintain privacy. Some young trees across the site and conifers in the south-western corner would be removed which would sit behind the boundary hedging.

A landscaping condition is suggested in line with the similar scheme allowed on appeal to mitigate these aspects.

It is not considered that the proposal conflicts with policy 28 of the SELLP as a result.

Planning Balance

Section 38 (6) of the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. To determine whether the proposal accords with the SELLP it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

The proposal represents infill development within the settlement boundary of Holbeach and is acceptable in locational terms. The proposed site layout provides a form of development which does not conflict with the pattern of existing development within the vicinity. It is not considered to constitute overdevelopment of the site and would not materially harm the character/appearance of the area.

In economic terms, future occupants of the houses may work locally, support local services and therefore make a contribution to the local economy. There would be short term economic benefits associated with the construction of the dwellings and minor long term benefits of increased spends associated with the households living in the four houses. The economic benefits resulting from the proposal weigh in favour of the proposal.

In community terms, the proposal would make a contribution towards housing supply in the district. This weighs in favour of the proposal.

In environmental terms, the development has been satisfactorily justified in terms of flood risk and the proposal is less harmful than the appealed scheme H09-1094-21 as it is set in slightly further from the boundary and has a more favourable roof design. In terms of amenity, it is considered there is no material harm in comparison with the appealed scheme which means the proposal is neutral in environmental terms.

The planning balance therefore weighs in favour of the proposal being approved.

The proposal therefore complies with policies 2 and 3 of the SELLP and paragraph 130 of the NPPF. Significant harm does not result when assessed against the planning policies taken as a whole.

Conclusion

Section 38 (6) of the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The key material consideration in this case is the appeal H09-1094-21. The case is so similar to the current proposal the difference between the two is not material. The proposal would not result in greater harm when compared with allowed appeal.

Approval is therefore recommended.

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.

RECOMMENDATION

Approve subject to conditions