

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0581-22 **Applicant:** Fiji Homes & Properties Ltd.

Proposal: Demolition of existing property and erection of one 5 bed house with garage and attached car port - re-submission of H09-0119-22

Location: Furtherhold Further Old Gate Holbeach

Terminal Date: 7th October 2022

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
22	Replacement Dwellings in the Countryside
28	The Natural Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 5 - Delivering a sufficient supply of homes
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

Representations:

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

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	7	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the demolition of the existing dwelling and erection of one two storey 5 bed house with a double attached garage. On the ground floor there would be a study, living room, w/c, utility, double garage and an open plan kitchen/breakfast/family room. On the first floor there would be a family bathroom and 5no bedrooms; 2 of which would be en-suites.

The dwelling is proposed to be constructed from stone (type to be confirmed), sitting under a grey slate roof. The doors and windows are proposed to be upvc (colour to be confirmed).

The southern boundary would part hedging and part 1.2 metre high post and rail fence. The northern boundary would have a 1.2 metre high post and rail fence. The western boundary would have a 1.8 metre high post and rail fence. The access would be tarmac and the rear garden would be laid to lawn.

It should be noted that the application has been amended and the footprint of the dwelling reduced as the initial scheme was not acceptable due to the significant increase in its footprint.

The application is a re-submission of a previously withdrawn scheme (H09-0119-22).

Site Description

The site is located on Furtherhold Old Gate in Holbeach. It is outside the defined settlement boundary and within the open countryside. It comprises a two storey dwelling in a poor state surrounded by high level boundary trees. The immediate area is primarily open countryside with the site being part of a small ribbon of development comprising residential and agricultural developments. The site is within flood zone 3.

History

H09-0119-22 - Demolish existing dwelling & erection of three 4 bed houses and garages - Withdrawn

Consultation Responses

South Holland Internal Drainage Board

No objections subject to compliance with the Boards Bylaws. A ground investigation is recommended to be carried out to determine infiltration potential.

Holbeach Parish Council

No objections.

Whaplode Parish Council

Objection as the site is within the open countryside.

LCC Highways/SUDS Authority

Does not wish to restrict the grant of permission. Requests the addition of two informative notes should permission be granted.

Residents

7no letters of objection have been received (some of which have been received from the same objectors) siting the following concerns:

- Overlooking from new windows in the side elevation
- The plans show a mains sewer however there is no mains sewer in the area
- Demolition may disturb wildlife
- The existing dwelling is derelict and no longer a dwelling
- The proposal results in overdevelopment of the plot
- Another dwelling may be erected on the land retained
- Loss of trees
- The single track road is not suitable for traffic associated with a 5 bed dwelling
- Site clearance has already started

Planning Considerations

Principle of development

The site is located outside of any settlement boundary and within the open countryside however, given there is already a residential dwelling present on the site, the principle of a replacement dwelling would be accepted subject to the below criteria set under Policy 22 of the SELLP:

1. the residential use of the building to be replaced (the original building) has not been abandoned;
2. the original building is permanent, has not become derelict and is not the result of a temporary permission;
3. the original building is not of architectural or historic merit and is not capable of repair;
4. the replacement building is of a high standard in terms of architectural detailing and materials of construction;
5. the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality; and
6. the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency.

It should be noted that this application is a re-submission of a previously withdrawn scheme. The previous scheme was withdrawn as it was not deemed acceptable as it resulted in overdevelopment of the site and no justification was provided with regards to compliance with Policy 1 and development of additional residential units in the open countryside.

The initial amended scheme submitted was not considered to comply with Policy 22 of the SELLP as its footprint was significantly bigger than the existing dwelling on the site (more than 40%). As such the plans have been amended and the footprint of the dwelling reduced, however the replacement dwelling still results in an increase of approximately 190% and the development is not of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency. As such it does not comply with point 6 under policy 22.

The existing dwelling is approximately 113m² and the proposed dwelling would have a footprint of approximately 328m². Given the countryside location it is not considered that this significant increase is justified.

Local residents have stated that the site is derelict and the dwelling has not been occupied for many years therefore it has lost its residential status. Whilst it is accepted that the dwelling has been vacant for a number of years and is in a bad state it is debateable whether it can be classed as derelict. The dwelling would need to be in a state beyond repair for it to be classed as derelict. There is no evidence that the residential use was abandoned at any point therefore the site is still considered residential.

As such the replacement dwelling is not considered to accord with Policy 22 of the SELLP.

Design and layout

Paragraph 130 of 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. Policies 2 and 3 of SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses.

One local resident has objected to the proposal on ground that the replacement dwelling would be too big for the plot. The concerns are noted and it is accepted that the proposed replacement dwelling would have a bigger footprint to the existing, however, is considered to be proportionate to the size of the plot and would retain sufficient amounts of outdoor amenity space. As such it is not considered that the proposal results in overdevelopment of the site. The front area would be sufficiently spacious for a driveway providing off-street parking for at least 3no vehicles. The boundary treatments would remain partly the same with some new fencing. Internally, all the proposed bedrooms would be above the minimum space standards and the future householders would enjoy good living conditions.

There is no strong built character in the immediate area therefore the proposed design and materials (some materials to be confirmed) are considered acceptable and not out of character with the area.

The site is currently overgrown and unkempt, resulting in a negative impact on the overall street scene/area therefore the proposed development is considered to improve the appearance of the site/area.

As such the proposed development is considered acceptable in terms of its appearance and impact on the street scene.

Residential amenity

Paragraph 130 of National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

The closest neighbour to the proposed replacement dwelling is Old Gate House located to the east of the site. This neighbour has raised concerns of overlooking from the new windows. The concerns are noted, however, the first floor windows in the side elevation facing this neighbour would serve a bathroom and a hallway therefore a condition has been appended for these to be obscure glazed. As such no unacceptable overlooking or loss of privacy would result. In addition, there are high level trees along the eastern boundary which would block any potential views in any case. The proposed dwelling would be sited a significant distance from this neighbour's dwelling therefore no overbearing impact or unacceptable overshadowing would result.

There are no other immediate neighbours and given the proposed dwelling would be sited well within the site no unacceptable impact would result on residential amenity.

As such there are no neighbouring amenity concerns and the replacement dwelling is considered to accord with the above mentioned policies.

Highway safety and car parking provision

In conjunction with Policy 36 of SELLP 2019, Appendix 6 sets out the minimum standards for parking provision upon the use class. Three spaces for dwellings with 4+ bedrooms should be provided within the curtilage. The proposed dwelling would have 5 bedrooms therefore 3no parking spaces would be required. The proposed driveway layout would be sufficient for at least three cars that could enter and egress the site in a safe and forward manner. In addition, the double garage meets the size requirements for enclosed parking spaces. Overall, the proposals would exceed the current minimum parking standards.

Local residents have raised concerns with regards to the single access road and whether this can accommodate the additional traffic associated with a 5 bedroom dwelling. The concerns are noted, however it is not considered that there would be a significant increase in traffic as there would be a single dwelling on the site, as existing. In addition, the County Highways Authority has not objected to the scheme on highway safety grounds. An informative has however been requested requiring the submission of details regarding the new vehicular access and its subsequent approval at a later stage.

Flood risk and drainage

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

Large parts of the South Holland district that are near the River Nene lie within Flood Zone 3. As such, the opportunities to undertake the development at an alternative site with a lower flood risk are limited. At this location it is not possible to position the development on higher ground within the proposed site.

The site for the proposed development is shown to be within Flood Zone 3a as detailed on the Environment Agency's Flood Zone Maps without defences. Although the site is in flood zone 3, and the actual risk of the site flooding from any Environment Agency or IDB watercourse is very low. The site is only at risk of flooding if a breach occurs to the tidal defences during a high tide in 2115 and these are over 13.5Km distant from the site. No flooding would be likely to occur if a breach did not occur.

The Flood Risk Vulnerability Classification in Table 2 of NPPG the proposed residential development is classified as "More Vulnerable", with Table 1 of NPPG stating that such uses are appropriate in this zone subject to the Exceptions Test.

With regard to the first point of the Exception Test, the development would provide some wider sustainability benefits to the community through a contribution (albeit small) towards housing supply, and other benefits including generating employment during the construction period. This FRA is in support of the development and indicates that the second part of the Exceptions test is satisfied, also that the development would be safe for the lifetime of the development (100 years) and not increase flood risk elsewhere.

The site does have the protection of tidal/fluvial flood defences which are well maintained by the Environment Agency.

The SFRA advises that there would not be an unacceptable risk of flooding provided the finished ground floor levels of the dwelling are set 300mm above the existing average ground level. In addition, the dwelling will be constructed using materials which are flood resilient construction as outlined in the report. This accords with the Environment Agency's Flood Risk Mitigation Policy to ensure 'safe' development. The proposed development is made safe from flood risk by ensuring the floor levels of the proposed dwelling is above the predicted residual flood levels in a 1 in 200-year event in 2115 for this area.

As such the development passes the Sequential Test and Exception Test and is therefore suitable for the proposed location.

Policy 4 of the SELLP relates to flood risk management and states that new development will be permitted if appropriate flood resistance and resilience measures are proposed (criterion c); it incorporates the use of Sustainable Drainage Systems (SuDS) (criterion e); and demonstrates that adequate foul water treatment and disposal already exists or can be provided in time to serve the

development (criterion g).

South Holland Internal Drainage Board has advised that the applicant has indicated that they intend to dispose of surface water via infiltration (installation of soakaways to the rear of the property), however the viability of this proposal has not been evidenced. It is recommended 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 the applicant would be expected to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that any discharge should be 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. It is noted from the Flood Risk Assessment (RM Associates, June 2022) that the applicant intends to discharge foul water via an existing drainage system to a package treatment plant. It is unclear how the applicant wishes to dispose of the treated foul water from the package treatment plant. However, the Proposed Development Plan (2020-213, REV 10E, The Duffin Partnership, April 2022) suggests that the applicant intends to discharge foul water to an existing foul drainage system to the south of the site. If the applicant proposes to discharge treated foul water to a watercourse, this proposal will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). The applicant should also confirm if there are any riparian owned watercourses adjacent to the site. Should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). An informative has been appended to this effect advising the applicant of the drainage boards bylaws.

Given the above and subject to the suggested mitigation measures within the submitted Flood Risk Assessment the proposal is considered to be in accordance with Policies 2, 3 and 4 of the Local Plan and Section 14 of the National Planning Policy Framework (2021) with regard to their provisions on flood risk and drainage.

Other matters

The following concerns have been raised by local residents:

The plans show a mains sewer however there is no mains sewer in the area - The concerns are noted. However, as the application is being refused no further details/clarification is required.

Demolition may disturb wildlife - The concerns are noted, however as the application is being refused no further details are required.

Another dwelling may be erected on the land retained - This is not shown on the current submitted plans and any such proposal would require planning permission therefore this can be considered when this happens.

Loss of trees - No details have been submitted with regards to tree removal/retention, however, given the application is being refused it is not deemed necessary to request this information.

Site clearance has already started - This is noted, however, site clearance would not necessarily be classed as development.

Planning balance

The principle of a replacement dwelling is not acceptable as its footprint would increase significantly more than 40%.

The siting, external materials, and mean of enclosures would be sympathetic with the neighbouring land uses and the semi-rural character of the area. The footprint of the dwelling would sit well within the plot. No undue harm would occur upon the amenity standards of adjacent neighbours. On-street parking would be prevented by appropriate car parking arrangement within the plot and no cumulative impact upon highway safety is anticipated by the proposal. Flooding would also be prevented by way of flood risk mitigation measures.

On balance, any adverse impacts of granting permission to the proposals would significantly and demonstrably outweigh the benefits, when assessed against the planning policies taken as a whole.

Conclusion

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.

Taking into account the above, whilst the scheme complies with policies 2, 3, 4, 10, 11, 17, 22, 28, 36 and Appendix 6 of South East Lincolnshire Local Plan (2019) and Sections 2, 5, 11, 12, 14 and 15 of National Planning Policy Framework (2019), it is not considered to comply with Policies 1, and 22 of the SELLP.

Accordingly, it is recommended to refuse this application via 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.

RECOMMENDATION

The application is refused under delegated powers.