

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H11-0730-20      **Applicant:** Mr G Franklin

**Proposal:** New dwelling - approved under H11-0245-18. Modification of Condition 2 to allow amendments to previously approved plans

**Location:** Pear Tree Farm St James Road Long Sutton

**Terminal Date:** 14th December 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 |
| 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 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       | 0        |
| WARD MEMBER     | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS | 0      | 0       | 0       | 1        |

|                        |   |   |   |   |
|------------------------|---|---|---|---|
| SUPPORT                |   |   |   |   |
| SHDC INTERNAL          | 0 | 0 | 0 | 2 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

Full planning permission was granted for a new house under the provisions of Paragraph 55 (now paragraph 80) of the National Planning Policy Framework in June 2018 (ref. H11-0245-18). Development has commenced on site.

The approved scheme includes living areas, a home office, games room and car and boat storage, with 5 bedrooms and a games room at first floor. To the north-west is a swimming pool and gym complex thermally separated from the main dwelling. The supporting statements accompanying the application indicated that, in accordance with criteria within paragraph 55 (now 80), the proposal would be of "very high-quality design". It would "adopt a highly sustainable approach .... and deliver a zero-carbon dwelling, utilising innovative design potential, in addition to modern techniques and technologies".

This application is to modify the scheme, including the following:

- Revisions to the roof design to accommodate the structural engineer's recommendations.
- Minor alterations to the fenestration.

### **Site Description**

The site is located off Sutton St James Road to the north-east of Sutton St James. It was formerly occupied by a collection of farm outbuildings and a large area of concrete hardstanding. A house is situated to the north.

### **Relevant Planning History**

H11-0280-02 - Full - Change of use from agricultural buildings/yard to HGV operating centre (part retrospective) - Pear Tree Farm, 153 St James Rd, Long Sutton - Granted September 2002. Use restricted to Souters Transport for a maximum period of 3 years. Number of HGV vehicles upon the site not to exceed 8.

H11-1092-02 - S73A - Modification of condition to allow HGVs to enter/leave the site between 06:00 to 12:00hrs on Saturdays - Granted January 2003 for one HGV only.

H11-0245-18 - Full - New dwelling - Approved 27 June 2018.

H11-1083-18 - Cond Comp - Details of Preliminary Environmental Risk Assessment, Geo-Environmental Report and Remediation Method Statement (Condition 9 i) and ii) of H11-024518) - Approved 20 December 2018.

### **Consultation Responses**

#### **Long Sutton Parish Council**

No response.

#### **LCC Highways/SUDS**

Does not wish to restrict the grant of permission.

### SHDC Environmental Protection

Request contaminated land condition (parts iii and iv).

### **Material Considerations**

The main issues in this case are whether there has been any material change in circumstance to justify an alternative decision to that previously and whether the design changes are acceptable:

### 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 (NPPF), 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 housing sites in excess of 5 years through the latest Housing Land Supply Assessment (6.0 years as of 31 March 2023).

### Principle of Development and Sustainability

Policy 1 of the SELLP states that development in the countryside will only be permitted where it 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.

Addressing the above, it has not been demonstrated that a dwelling is necessary to this location. In terms of the 3 dimensions of sustainable development, the proposal would have social benefits in providing a new modern dwelling to meet the needs of the applicant and also future generations. However, the site is divorced from existing services and facilities and occupiers would be reliant upon the motor vehicle to access these services. Economically, it would provide local construction employment opportunities, albeit in the short term. However, it would result in the loss of an employment site, which is presently vacant. Environmentally, the proposal would result in the removal of existing buildings that are of no significant historic or architectural quality and which are mainly utilitarian in appearance.

In terms of national planning policy, Paragraph 80 of the NPPF makes provision for new 'isolated' dwellings in the countryside in limited circumstances. The meaning of the term 'isolated' was a matter discussed in *Braintree District Council v Secretary of State for Communities and Local Government* 2 P. & C.R. 9. In that instance, the Court of Appeal supported the Inspector's approach to the question of "isolated homes in the countryside", saying that the decision maker must consider, "whether would be physically isolated, in the sense of being isolated from a settlement". What is a "settlement", and whether the development would be "isolated" from a settlement are both matters of planning judgment for the decision-maker on the facts of the particular case. In *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* EWCA Civ 320, the judgement builds upon that reached in the *Braintree* case, confirming that the measure for whether a site is isolated is its proximity to a settlement, not other dwellings.

Applying the above interpretation, it can be argued that the application site is isolated from a settlement and that Paragraph 80 can be considered of relevance to the proposal.

Paragraph 80 sets out that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:  
a) there is an essential need for a rural worker, including those taking majority control of a farm

business, to live permanently at or near their place of work in the countryside,  
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets,  
c) the development would re-use redundant or disused buildings and enhance its immediate setting,  
d) the development would involve the subdivision of an existing residential building, or  
e) the design is of exceptional quality, in that it:  
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas, and  
- would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area."

Parts (a) - (d) do not apply to this proposal, therefore the only part the application can be assessed against is (e). Establishing whether a proposal is of truly outstanding design is invariably a subjective matter. Regarding the proposal, the Design and Access Statement accompanying the original application (ref. H11-0730-20) indicated the following:

"The form of proposal is conceived as a sculptural monolithic object into which openings have been 'carved'. By employing the use of gables and pitched roofs; two architectural devices commonly associated with domestic buildings in this country, it is intended that from some angles the proposal will appear familiar and 'house-like'. Yet because these familiar architectural features have been adjusted to suit the interiors for example, from some viewpoints the proposal will appear more abstract.

The proposal has been designed so that the main dwelling will appear as the most formally dramatic part of the scheme whilst the swimming pool, gym and boat store will be less so. To this end, the main dwelling is two- storey whilst the other volumes are single-storey."

It went on to stress that "in-keeping with the idea that the dwelling will be the most formally dramatic part of the scheme, its roofs will be pitched whilst those of the other volumes will be flat. The roof is designed such that the often-redundant space beneath is utilised to form dramatic interior spaces.

In this way, the interior of the dwelling has a relationship with the interior. Furthermore, to construct a roof of such size, innovative Cross Laminated Timber (CLT) panels will be utilised to form the structure, which, in turn, will be supported by Glulam Timber ridge beams. The CLT will be specified in some places to be 'visual grade' internally so that the structure of the roof is visible inside. Expressing the grain of the CLT panels internally will imbue a 'lofty' character to the vaulted interior spaces."

In respect of materials, the design statement indicated that "to emphasise the concept behind the form of the proposal being a sculptural monolithic object", all external walls will be in Lincolnshire Limestone. The pitched roof would be in a grey coloured natural slate, quarried within the British Isles.

The Design and Access statement indicated that the main dwelling is L-shaped in plan to maximise the potential for passive solar gain from the south and west whilst also enabling views out to the large private garden. At ground floor level, the main living spaces are located along the southern and western edges of the plan to take advantage of passive solar gain and receive good levels of natural daylight. The open-plan design of these spaces will enable views of the garden in multiple directions and between the different rooms.

The Energy Strategy and Sustainability Statement accompanying the application stressed that the proposed development has been designed to achieve the highest of environmental performance standards following the principles of paragraph 55 (now 80). The energy efficiency and energy hierarchy requirements have been applied in order to deliver a zero-carbon dwelling; equivalent to former Code for Sustainable Homes CODE 5 standard. This has been achieved through innovative passive design, the adoption of high standards of insulation, innovative HVAC design providing renewable heating via a ground source heat pump and electricity generation via roof mounted photovoltaic (PV)

Concluding, therefore, in order to meet the tests set out in paragraph 80 the house has to be of the highest design quality, be innovative, sustainable and enhance its surroundings.

There are two possible views that could be taken with regard to this application. The first is that the proposal delivers a zero-carbon dwelling and reflects exceptionally high standards in architecture, with high sustainability credentials, is innovative and would enhance its immediate setting in terms of the use of materials and method of construction and could therefore be permitted as an exception

under paragraph 80. The second view is that there is not sufficient justification to override the development plan policies and advice within the Framework aimed at protecting the character and appearance of the open countryside.

In respect of the previously approved scheme (ref. H11-0245-18) the view was taken that the house would be sustainable and enhance its surroundings in terms of appearance. Moreover, it would deliver a zero-carbon home. It was considered innovative in terms of design, materials and method of construction and therefore met the requirements within paragraph 55 (now 80) of the Framework. On balance, this is still considered to be the case in respect of the amended proposal despite the proposed amendments to the design of the roof.

### Other Material Considerations

#### Impact on Residential Amenity/Land Users

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Paragraph 130 of the National Planning Policy Framework (2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The nearest residential property is Pear Tree House to the north. 1.8 metre fencing is situated along the south-eastern boundary. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, over shadowing and overbearing effect given the distances involved. In terms of potential noise and disturbance, this should be reduced once construction is complete when compared with the present use of the site.

The proposal satisfactorily complies with Policies 2 and 3 of the SELLP in this respect.

#### Highway Safety

Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) advises 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".

Sufficient parking facilities are available on site. The County Highways Authority does not wish to restrict the grant of permission on highway safety grounds.

The proposal satisfactorily complies with Policies 2, 3 and 36 in terms of highway safety/parking requirements.

#### Flood Risk/Drainage

Policy 4 of the South East Lincolnshire Local Plan relates to flood risk and indicates that "development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

The Framework states that development in areas that are at risk of flooding should be avoided. It also states, at paragraph 161, that all plans in such areas should apply a sequential test to avoid flood risk and steer development toward areas with the lowest risk of flooding. If it is not possible to locate development in a lower risk area the exception test may be applied. Similar to SELLP Policy 4, this would need to demonstrate that the development would provide wider sustainability benefits to the community to outweigh the flood risk and would be safe for its lifetime, without increasing flood risk elsewhere.

The site, as situated, is located within Flood Zone 3 of the Environment Agency's Flood Map for Planning. The latest Agency 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 flood defences.

The South Holland Strategic Flood Risk Assessment (2017) is therefore used as a basis to apply the sequential test. In this respect, the site varies between no hazard and "danger for some". The view was previously taken that it is not possible, consistent with wider sustainability objectives, for all new housing within the district to be delivered within an area of no risk and this is an area of lower risk.

If it is not possible to locate the development within an area of lower flood risk, 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, the proposal scores positively against the aims and objectives of the Local Planning Authority's sustainability appraisal and would provide wider sustainability benefits to the community that outweigh flood risk. This includes the provision of additional sustainable housing of exceptional and innovative design, in accordance with paragraph 80 of the National Planning Policy Framework, 2023.

In terms of the second element, the previously approved flood risk assessment recommends that finished floor levels (FFLs) be set at least 500mm above existing ground level. Flood resilient construction should also be incorporated within the development up to 300mm above finished floor level and future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

In terms of drainage, foul water would be disposed of to a package treatment plant and surface water via a sustainable drainage system.

The proposal satisfactorily complies with Policy 4 of the SELLP and advice within the Framework in terms of flood risk/drainage.

### Ecology

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 impact or enhancement for areas of natural habitats. Policy 3 indicates that development proposals should, where relevant to the proposal, include the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity.

Policy 28 indicates that all development proposals shall provide an overall net gain in biodiversity.

There was some evidence that Barn Owls have used the site and a nest box was present in one of the buildings. The ecological appraisal accompanying the application recommends that, to compensate for the loss of shelter and to enhance the site for Barn Owls, two barn owl boxes should be installed on the site. This matter can be addressed by means of a condition(s).

## Planning Balance

As detailed above, 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 there is some conflict with Policy 1 of the SELLP on spatial grounds in the sense that the site is divorced from a settlement. However, Paragraph 80 of the National Planning Policy Framework, 2023 indicates that isolated homes should not be allowed in the countryside, unless there are special circumstances such as a dwelling being of exceptional quality or innovative in design terms. Such a design should: be truly outstanding or innovative, helping to raise the standards of design more generally in rural areas; reflect the highest standards in architecture; significantly enhance its immediate setting; and be sensitive to the defining characteristic of the area.

The view has previously been taken (ref. H11-0730-20) that the proposed dwelling would be sustainable overall and enhance its surroundings in terms of appearance. It would deliver a zero-carbon home and was considered innovative and high quality in terms of design, materials and method of construction. On balance, this is still considered to be the case despite the revisions to the design of the roof, etc. The proposal therefore meets the requirements within paragraph 80 of the Framework.

The proposal would not materially harm the amenity of neighbouring residents and LCC Highways has raised no objections on highway safety grounds. The proposal complies with advice within the Framework in respect of flood risk, subject to flood mitigation measures.

## **Conclusion**

The proposal satisfactorily complies with Policies 2, 3, 4 and 36 and Appendix 6 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF), 2023. Although there is conflict with Policy 1 on spatial grounds this is outweighed by advice within paragraph 80 of the Framework. The latter indicates that new homes should exceptionally be allowed in the countryside if they are of exceptional quality or innovative in design terms which, on balance, is considered to be the case in this instance.

## **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**

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