

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 10 April 2024

(Author: Mark Niland - Planning Officer)

Purpose: To consider Planning Application H11-0960-23

Application Number: H11-0960-23

Date Received: 27 October 2023

Application Type: FULL

Description: Change of use of land to form residential curtilage

Location: SEAGATE FARM 184 SEAGATE ROAD LONG SUTTON

Applicant: Mrs A Hoey

Agent: Swann Edwards Architecture Limited

Ward: Long Sutton

Ward Councillors: Cllr A C Tennant
Cllr J Tyrrell
Cllr D J Wilkinson

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H11-0960-23>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Requested by Chairman's Panel

2.0 PROPOSAL

2.1 The proposal is for a change of use of land to form residential curtilage. The land is located to the rear (west) of 184 Seagate Road. The proposal would not comprise a change to the access arrangement which will utilise the same access as that of number 184 Seagate Road.

Currently on this area of land is a building that is being lived in. This building initially formed part of the proposal; however, subsequently the applicant has removed the request for the Local Planning Authority to consider the structure on the basis that it meets with the definition of a caravan/mobile structure. As such, this aspect does not form part of this proposal.

2.2 The building referred to above is currently being lived in, and its accommodation is described as ancillary to number 184; however, in its current form this is in breach of planning given that the site in which the building lies is not lawfully residential land or an extension to the residential curtilage.

3.0 SITE DESCRIPTION

3.1 The application site is visible from the A17 which runs along the northern boundary of land associated with the applicant. To the east is Seagate Road. Number 184 fronts this road and has a domestic access to the front. Another access is located slightly to the north on Seagate Road and this serves the agricultural planning unit, within this unit there is an existing barn.

Also, within the wider agricultural unit (and to the rear of the existing curtilage of number 184), is a building which is being lived in, this area is subject to the change of use sought through this application.

The application site is located outside of any defined settlement limit and within the countryside for policy purposes.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

Policy 1 Spatial Strategy
Policy 2 Development Management
Policy 3 Design of New Development
Policy 28: The Natural Environment
Policy 29: The Historic Environment
Policy 30: Pollution
Policy 36: Vehicle and Cycle Parking

4.2 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) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.3 National Guidance

National Planning Policy Framework (NPPF), December 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 12 - Achieving well-designed places
Section 15 - Conserving and enhancing the natural environment

4.4 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 None Relevant.

6.0 REPRESENTATIONS

6.1 Consultation Responses

6.2 Long Sutton Parish Council

Objects to the proposal.

The initial application included a dwelling and was a retrospective application following advice from SHDC planning enforcement.

All previous applicants were refused permission on this site due to the site being agricultural and the impact on the Grade II listed building Seagate Hall.

6.3 South Holland IDB

Thank you for your consultation on planning application H11-0960-23 . Having screened the application, whilst the site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore the Board has no comments

to make.

6.4 Highways

No objection.

6.5 Environmental Protection

Requires land contamination report.

6.6 **Representations**

6.7 This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, an objection has been received against the application, and expands on the building itself and that work has continued despite planning enforcement encouraging an application.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

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

7.3 In this case, the South East Lincolnshire Local Plan 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.

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

7.5 Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

7.6 Principle of Development

7.7 The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

7.8 Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

7.9 The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

- 7.10 Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". The site is located outside the settlement boundary in this instance, as defined within the South East Lincolnshire Local Plan. It is therefore regarded as being within the countryside in policy terms. As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.
- 7.11 Development within the countryside is limited to that 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".
- Paragraph 47 of the National Planning Policy Framework (December 2023) states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing."
- 7.12 The application site is located within the open countryside (as is the existing residential curtilage and dwelling). The existing curtilage is small in comparison to other dwellings in the area. The neighbouring property to the south is number 186 Seagate Road, with a series of outbuildings. This property is set in behind high brick walls which are very domesticated in appearance.
- 7.13 The applicant seeks a change of use of some of the agricultural land to the rear, to form residential curtilage, with access to be taken through the existing domestic access associated with number 184 Seagate Road. It is considered that given the existing garden is not proportionate to the host dwelling and that its size is much smaller than neighbouring properties, coupled with the limited harm that would result by permitting this land to be garden land, it is considered that justification exists to support a departure from the development plan in this instance.
- 7.14 Despite a building being on this land, the building itself is not subject to assessment, but is being lived in, in breach of planning control, because of the change of use of land. Any decision hereby issued would not be granting this building planning permission.
- 7.15 At present the two planning units (the domestic one associated with number 184 Seagate Road 'the dwelling' and the agricultural unit) are difficult to physically determine on site. This application if approved would allow for the two units to be clear and set out on plan. One access relating to the domestic unit and the other to the agricultural unit. A condition seeking boundary demarcation, and potential landscaping would further reinforce this point, allowing a clear distinct between the two units to be ready going forward, it would also be necessary to protect the countryside character from ancillary domestic paraphernalia and structures. This has potential to represent betterment over the existing scenario.
- 7.16 On this basis, while the proposal would not accord with Policy 1 of the South East Lincolnshire Local Plan, it is considered that sufficient material considerations are present in order to support a departure from the development plan in this instance.
- 7.17 Amenities and Environmental Considerations
- Section 12 of the National Planning Policy Framework (December 2023) 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.
- 7.18 Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), 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 and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines,

boundary treatment and through scale and massing.

- 7.19 Policy 2 of the South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.
- 7.20 Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.
- 7.21 The application site at present is agricultural. It is not considered that the change to form residential curtilage would carry any unacceptable additional impact in relation to amenity, especially given it would abut the neighbouring garden. The use change therefore would not give rise to harmful impacts that would result in refusal or the requirement for planning conditions.
- 7.22 On this basis, the proposal is considered to accord with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).
- 7.23 Highway Safety
- Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (December 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".
- 7.24 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.
- 7.25 The applicant seeks to utilise the existing access arrangement associated with number 184. It is considered that the change of use of this area of land would not result in a level of intensification of this access that would result in safety issues for future or existing users of the highway.
- 7.26 On this basis, it is considered that the proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).
- 7.27 Planning Balance
- 7.28 The proposal is to extend the existing residential curtilage into the open countryside. Whilst this may be in conflict with SELLP Policy 1, it is considered that material considerations exist that would support a departure from the development plan.
- 7.29 These include the limited harm that would follow from such an extension, the size of the curtilage (in comparison to neighbouring properties) and the ability to apply betterment by conditioning a boundary demarcation condition that would make clear the residential planning unit from the agricultural planning unit, which would be beneficial to the character of this countryside location.
- 7.30 **Conclusion**
- 7.31 The proposal is considered acceptable in this instance for the reasons outlined within this report.

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.

8.0 RECOMMENDATIONS

8.1 Grant permission subject to conditions

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

PP1100 (Site Location Plan dated February 2024)

Reason: For the avoidance of doubt and in the interests of proper planning.

3. Within 3 months of the date of this permission, a scheme of hedge planting and treatments for the boundaries of the site including details of positions, heights on planting and species shall be submitted to and approved in writing by the Local Planning Authority. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following receipt of this permission. All hedging shall be maintained by the owner or owners of the land on which they are situated for the period of ten years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development includes boundary hedge planting, in the interests of its visual amenity and that of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4. The garden land hereby permitted shall be and shall remain incidental to the use of the dwelling known as 184 Seagate Road. It shall not be sold or let off separately, and shall be used only by members of the family of the occupier of that dwelling. The extended curtilage shall not be accessed or egressed through any other means than the domestic access arrangement shown on the site location plan (drawing number PP1100 and dated February 2024).

Reason: The Local Planning Authority consider that the proposed extension to the curtilage would be inappropriate for users independent of the main dwelling and contrary to countryside policies set out within the local plan.

This Condition is imposed in accordance with Policies 1 and 3 of the South East Lincolnshire Local Plan, 2019 and Section 5 of the National Planning Policy Framework, December 2023.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out.

i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas or raised decks;

ii) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas;

Reason: To ensure that the Local Planning Authority retains control over the future extension and alteration of the development, in the interests of its architectural and visual integrity, levels of residential amenity and the visual amenity and character of the area within which it is set. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and and Section 12 of the National Planning Policy Framework, December 2023.

6. The applicant is advised that it may be appropriate to consider the submission of a lawful development certificate as regards the existing use of the building located on this site.

7. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

