

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H11-1115-19 **Applicant:** Mr W Kirkham
Proposal: Proposed agricultural workers dwelling
Location: Gimmels Gate Sutton Crosses Spalding
Terminal Date: 14th February 2020

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
29	The Historic Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 3, 4, 5, 12 and 14

Representations:

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

OTHER STATUTORY BODIES	0	0	0	2
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CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for a 4 bed house (agricultural workers dwelling).

Site Description

The site (approximately 0.06ha) is located on the western side of Gimmels Gate and is currently occupied by a concrete rendered building with a corrugated iron roof.

The nearest dwellings are situated to the south and also the south -east on the opposite side of Gimmels Gate.

History

No recent history.

Consultation Responses

Long Sutton Parish Council - The proposed site is outside of the development boundary. A precedent has been set by SHDC by the refusal of a proposal in the same area of Sutton Crosses.

LCC Highways/SUDs - Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board - Request drainage strategy.

SHDC Environmental Protection - Request contaminated land condition.

Public - No comments received.

Supporting Information from Applicant's Agent (summarised):

The applicant is both an agricultural worker and retained fire fighter (key worker) and is seeking planning permission for a new home in his area of employment.

This is a full planning application for 1 no. new agricultural habitation dwelling (4 bedroom house) at Gimmels Gate, Sutton Crosses. The dwelling is proposed on a site currently occupied by a disused bungalow.

The applicant has prepared a brief statement in support of the application as follows:

"I am looking to build a property on my family owned farm to replace an existing building. The background to this is as follows. The building I wish to replace was built in 1946 and used as a domestic dwelling until the house adjacent to this property was built in 1964. That was then made redundant for living in and subsequently it became used as an agricultural store. The reason I need to build this property is because I work at the family farm where this site is and my father is approaching retirement age, at which point I would then take over the running of it. We recently have become partners in this firm.

I am also a Crew Manager at Long Sutton retained fire station and have been for 10 years. We man a fire appliance along with a fire ambulance. I drive both vehicles and also run in charge of both. I therefore need to live within 3-4 minutes of the station so that I can continue to respond to support my community while also being close to the family-run farm. There are utility services and amenities

available to this site as there are numerous surrounding properties. It is also a mile from all local facilities, local school where my children attend and near to the local doctors."

The family farm comprises the land and farmyard in Gimmels Gate in the region of 6.5 acres. There is a further 21 acres off Cross Gate and around 23.5 acres off Gowts Lane, in all totally around 51 acres. The land is used for arable farming.

Planning Considerations

The main issues in this case are:

- Policy/sustainability;
- The likely impact upon the amenity of nearby residents;
- Highway safety;
- Other material considerations such as flood risk.

Policy/Sustainability

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

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 of the South East Lincolnshire Local Plan is therefore applicable. It states that development will be permitted in the countryside that 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.

Explanatory text accompanying the Local Plan indicates that there are types of development that require a countryside location and that they include agriculture. Consequently, agricultural dwellings may also, by exception, be justified in the countryside. This approach is consistent with advice within the National Planning Policy Framework, 2019. Paragraph 79 of the Framework states planning policies and decisions should avoid the development of homes in the countryside unless there are special circumstances such as 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."

The application is for a four bedroomed dwelling at Gimmels Gate which comprises 2.6 hectares (6.5 acres) of land, buildings, and an existing farm house. In addition to the land at Gimmels Gate there are two further blocks of land at Cross Gate - 8.5 hectares (21 acres) and 9.5 hectares (23.5 acres) off Gowts Lane; giving a total area of 20.6 hectares (51 acres) of land. It is not stated whether the land is all owned or part rented.

The holding is currently farmed by the applicant and his father who are partners in the farm business. It is stated in the Design & Access Statement that the applicant's father is approaching retirement age and at that point the applicant would take over the running of the farm. The farm is used for arable farming, although no areas of any crops have been given in the Design & Access Statement.

Planning Practice Guidance was provided in July, 2019 at paragraph 010 which deals with the need for agricultural workers' dwellings in the countryside and which sets out considerations that may be relevant to take into account when applying paragraph 79(a).

They are as follows:-

1. Evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the affective operation of an agricultural, forestry or similar land based rural enterprise (for instance, where farm animals or agricultural processes require on-site attention 24 hours a day and where otherwise there would be a risk to human or animal health, or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products); - As the holding is purely cropped with arable crops, and also there is only 2.6 hectares (6.5 acres) of land at the application site, the Council's Agricultural Consultant considers the holding is part-time, and there would be no essential/functional need for a full-time worker to live at or near the farmstead. Therefore, the essential/functional need criterion has not been satisfied.

2. The degree to which there is confidence that the enterprise will remain viable for the foreseeable future; - The Council's Agricultural consultant has assessed the submitted accounts and is of the opinion that approximately 20 hectares of arable crops is insufficient to pay the applicant a minimum wage, or sustain the cost of a four bedroomed dwelling. Therefore, he considers that this criteria has not been satisfied and nor has the sustainability element of the Framework.

3. Whether the provision of an additional dwelling on site is essential for the continued viability of a farming business through the farm succession process;
- As the enterprise is neither full-time with no essential/functional need and is unlikely to be financially viable and able to sustain the cost of the proposal the Council's Agricultural Consultant considers this criteria has not been satisfied.

4. Whether the need could be met through improvements to existing accommodation on the site, providing such improvements are appropriate taking into account their scale, appearance and the local context; - It may be possible to convert an existing building on the holding to residential, but this would have to be assessed on its own merits.

Concluding, therefore, there is no essential need for an agricultural dwelling at Gimmels Gate as the farming enterprise is part-time with no essential/functional need for a worker to live at the application site. In addition, it is considered that the farming enterprise is not capable of sustaining the cost of the proposed dwelling after the deduction of all costs. The application is therefore unable to comply with the guidance in the revised Framework for an agricultural workers' dwelling.

The supporting statement indicates that the applicant is also a retained fire fighter (key worker) and that he is seeking planning permission for a new home in his area of employment. Whilst it is recognised that this is a key role within the community and helps supplement the applicant's income, there is nevertheless not an essential need for accommodation in this particular location in conjunction with this element of the applicant's employment.

SELLP Policy 1 also indicates that development will be permitted in the countryside if it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The relevant criteria are discussed below:

Economic - the proposal would make a small contribution towards housing supply and future occupants would work locally, support local services and make a contribution to the local economy.

Community/Social - the proposal is deliverable and would make a small contribution to the supply of housing required to meet the needs of present and future generations. The applicant is also a key worker within the local community. However, the site is not closely related to an existing built up area and would not be readily accessible to existing services and facilities other than by motor vehicle.

An Environmental Role - The site is currently occupied by a small storage building. Its replacement by a modern house would give the site a domestic appearance and would constitute an intrusive element that would be detrimental to the prevailing rural character of the countryside.

The proposal is therefore contrary to Policies 1 and 2 of the SELLP, 2019 and advice within the National Planning Policy Framework, 2019. Policy 2 indicates that sustainable considerations should be met in terms of impact upon the character and appearance of the area. Paragraph 170 of the Framework states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside. Paragraphs 122 and 127 indicate that new development should be sympathetic to and maintain an area's prevailing character.

Policy 22 of the SELLP indicates that proposals for the erection of replacement dwellings will be permitted subject to compliance with specific criteria. They include the residential use of the building not being abandoned and the replacement not exceeding the floor area by more than 40%, unless it is of exceptional quality. In this case the building has not been used as a dwelling since the 1960's and is now used as a store. Its domestic use has therefore been abandoned. Moreover, its size exceeds the specified threshold. Consequently, the proposal fails to comply with Policy 22.

Amenity

The nearest residential properties are situated to the south (currently associated with the agricultural holding) and also to the south east on the opposite side of Gimmels Gate. It is considered that the amenity of nearby residents would not be materially harmed in terms of overlooking, lack of privacy, noise and disturbance, etc. The proposal is therefore in accordance with Policies 2 and 3 of the SELLP in this respect.

Highway safety

Access would be onto Gimmels Gate, which is a narrow rural road. However, 3 parking spaces would be available for use on the site. LCC Highways has raised no objections on highway safety grounds. The proposal is therefore in accordance with Policies 2, 3 and 36 of the SELLP in this respect.

Flood risk

The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. 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.

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 South East Lincolnshire SFRA indicates that the site is located within an area identified as "Danger for Some". It is possible for development of this nature to be delivered within an area that is of lower flood risk. The proposal therefore fails to satisfy the sequential test. It is considered that the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to Policies 2 and 4 of the SELLP and advice within paragraphs 158 to 160 of the National Planning Policy Framework, 2019.

Conclusion

It is considered that there is not an essential need for an agricultural dwelling in this countryside location. Moreover, although the proposal would have some economic and social/benefits they are outweighed by the harm that the proposal would cause in terms of other social and environmental factors. They include the distance from local services and facilities, reliance upon the motor car and the development's harmful effect upon the character and appearance of the countryside.

The site is not therefore considered to be a suitable location for a new dwelling with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is contrary to Policies 1 and 2 of the South East Lincolnshire Local Plan, 2019 and Paragraphs 7, 8, 11, 47, 79, 122, 127 and 170 of the National Planning Policy Framework, 2019. Paragraphs 7 and 8 indicate that new housing should be in a sustainable location and contribute towards protecting and enhancing the environment. Paragraph 79 stresses that local planning authorities should avoid new homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. It has not been satisfactorily demonstrated that the latter is the case having regard to advice within National Planning Practice Guidance published 22 July 2019 (Housing Needs of Different Groups).

Moreover, the South East Lincolnshire SFRA indicates that the site is located within an area identified as "Danger for Some". It is possible for development of this nature to be delivered within areas of the district that are of lower flood risk. The proposal therefore fails to satisfy the sequential test and is not in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 14 of the National Planning Policy Framework, 2019.

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.