DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H12-1059-23**	**Applicant:**	**Mrs W Morris, Mrs J Claxton & Mr S Lucas**
Proposal:	Residential Development - 5 Houses		
Location:	Land Off Lutton Gowts Long Sutton Spalding		
Terminal Date:	16th February 2024		

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
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
22	Replacement Dwellings in the Countryside
23	The Reuse of Buildings in the Countryside for Residential Use
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed and beautiful 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 SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	11	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The application seeks outline planning permission for the erection five dwellings, on Land off Lutton Gowts, Long Sutton.

The proposal has been submitted with all matters reserved for later approval; however, an indicative proposed layout has been submitted illustrating that the potential form of development, comprising five detached dwellings, on Land off Lutton Gowts, Long Sutton.

Site Description

The site is currently in agricultural use and is located off Lutton Gowts in Lutton Gowts. The site is outside any settlement boundary and within the open countryside.

The surrounding area is predominately rural with linear development of varying ages and designs to the west. The site is within the Environment Agency flood zone 3.

History

None on the application site.

Adjacent Land

H12-0687-23 - Construction of 5,360 sq mt glasshouse together with a fresh water storage lagoon - Approved 27.10.2023

Consultation Responses

LCC Highways & SUDS Support

Recommendation: No objection
The principle of development is acceptable. As this is an outline application with all matters reserved, access and layout have not been considered. However, we should advise that the applicant considers paired accesses to plots 1&2 and 4&5 in the interests of highway safety. Please make the applicant aware of the requirements for access, parking, visibility, turning and layout as detailed within the Lincolnshire County Council Design Approach, in order to support any further application.

Additionally, sufficient information will be required to demonstrate that the use of a suitable drainage system for the management of surface water run-off is appropriate for this site to mitigate concerns with flooding of the property and surrounding land.

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 the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore 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 and surface water flood risk 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 surface water flood risk and drainage proposals for this planning application.

SHDC Environmental Protection Officer

No comment regarding land contamination

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

While the Flood Risk Assessment (Ellingham Consulting LTD, Dec 2023) submitted with the application states that "Surface water at the site would naturally drain through soakaway and hence to the IDB drain system" the Officers understanding of this is that no formal strategy is to be provided. We recommend a drainage strategy in line with the SuDS hierarchy is provided for the site. Should the applicant propose an infiltration based strategy we recommend 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 the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. Please note that we recommend that any discharge is 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.

Byelaw 3 (Treated Foul Water)

I note that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the Eastern site boundary. Whilst not currently proposed, 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).

The Board recommends that adequate space (3-5 metres) is left flat and free from obstruction adjacent to the riparian watercourse in order to enable maintenance by future riparian owners or a designated maintenance company/contractor.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 12 letters of representation have been received.

These can be summarised as:

-Loss of privacy

-Potential overshadowing
-Increase in traffic
-Dangerous location
-Grade I agricultural land
-Outside the settlement boundary
-Would set a precedent
-Potential flooding risk
-Resent approvals of applications near by has already increased traffic
-Not near facilities so the use of cars would increase carbon emissions
-Would impact on local schools and doctors
-Not in keeping
-No affordable housing
-Would have an affect on the Listed Mill
-Increase noise
-The planning statement is incorrect
-No main services
-Impact on the quality of life
-Potential loss of BMV land which Natural England Guide (Feb 21) indicates developments should avoid

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Foul and Surface Water Drainage
- Biodiversity

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 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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

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.

The Authority is also able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Principle of Development and Sustainability

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.

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. 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 in terms of sustainability.

As such, development within these settlements, subject to the proposals compliance with other relevant national and Local Plan policies, may be considered acceptable in principle where they lie within the settlement boundaries of that settlement.

The National Planning Policy Framework, (NPPF) (December 2023) outlines, within para 60, that "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay and that land with permission is developed without unnecessary delay".

Para 70 of the NPPF (December 2023) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly"). This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The application site in this instance lies within a postal area of Lutton, a settlement that is identified as an Other Service Centre within Policy 1 of the South East Lincolnshire Local Plan. However, the site itself lies detached from the main built form or built-up area of Lutton and lies beyond the clearly identified settlement boundaries (approximately 200m) for this settlement, as specified within Policy 1.

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 Lutton Settlement Limits, 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.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at paragraph 5.3.5 that "within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development *"provided that the material considerations of the Local Plan and particular sites can be met*".

This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise.

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". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

The supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The application site comprises an undeveloped parcel of land that is not considered to meet the provisions of either of these policies. The proposal comprises four new residential dwellings located within the open countryside, located on undeveloped land and therefore does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).

However, open market housing is not a development type that specifically requires a countryside location. This is particularly the case in this instance where the Council has a development plan that has been relatively recently adopted, with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (5.9 years on 31 March 2022); as such, whilst windfall sites would contribute to the housing provision, there is no direct need for unsuitable development or development within the open countryside that conflicts with Local Pan Policies.

Paragraph 84 of the National Planning Policy Framework, December 2023 (NPPF) 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 dwelling; or
e) the design is of exceptional quality, in that it:
- is truly outstanding or innovative, 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.

Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that the development of an open market house is necessary to this location. In terms of the 3 dimensions of sustainable development, the following has been considered:

- An economic role:
The development may give limited support to the local economy through employment opportunities associated with some elements of construction and fitting out, and future occupants may work locally and support local services.

- A social role:
The proposal would make a contribution, albeit small, towards housing supply in the District. However, no explanation has been submitted why the development cannot be accommodated within an existing settlement boundary.

- An environmental role:
The environmental objective identifies the need to protect and enhance our natural, built, and historic environment. It has not been demonstrated that the development is necessary in this location and how it would protect/enhance the existing character of the area.

If permitted, the proposal would also encourage further applications of a similar nature in the open countryside which would then be hard to resist, contrary to the objectives of the Framework to pursue sustainable development and the aim to protect the character of the countryside.

The proposal would introduce new residential units in the countryside. It has not been demonstrated how the benefit of such a proposal would outweigh the impact upon the environment. Whilst other material planning considerations could be accepted, the principle of the development would not be considered acceptable given the site is in the open countryside.

The proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses.

These policies are in accordance with advice within the National Planning Policy Framework, (December 2023). Paragraph 135 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 180 seeks to protect the character of the countryside.

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 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.

Policies 2 and 3 of 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.

Residential dwellings are situated directly to the west of the site. However, these dwellings are located across the road and the indicative plan shows satisfactory separation distances could be achieved between the existing properties and the proposed new development generally. It is considered that the site could be developed without materially harming the amenity of nearby residents in terms of overlooking, lack of privacy, overbearing effect, overshadowing, noise, and disturbance, etc.

It is accepted that there would be some disruption to local residents during the construction stage. However, this would be temporary and could be alleviated by means of a construction management plan if permission was forthcoming.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 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".

In respect of highway matters, 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.

The submitted indicative plan shows sufficient space to accommodate at least 3no vehicles for the proposed dwellings. As such, minimum parking standards could be ensured. In addition, the Local Highway Authority has not raised any objections.

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).

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the

lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These 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.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan 2019 is clear in 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.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The Residual Flood Hazard Map for the 1% fluvial and 0.5% tidal event shows the site being within the Danger for Most. The application in this instance has been supported by a flood risk assessment, with mitigation being proposed including finished floor levels being 1m above surrounding ground level and 0.3m of flood resilient construction above finished floor levels. These mitigation measures would be subject to a condition.

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.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019 and the intentions of the National Planning Policy Framework December 2023 in this regard.

Planning Balance

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 site is outside Lutton's settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), March 2019. It is therefore within an area regarded as countryside.

SELLP Policy 1 indicates that development in the countryside will be permitted 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.

It has not been demonstrated that a dwelling is necessary in this particular location; for example, in conjunction with an agricultural or other rural based business.

Concerning the second element, although there would be some economic and social benefits, they are outweighed by the environmental harm that the proposal would cause. The proposal would introduce new dwellings onto the site and result in a significant encroachment into the countryside. The proposal would urbanise the character and appearance of the site and this increased urbanisation would significantly harm the rural character and appearance of the site and the surrounding area.

The site is not therefore considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is not in accordance with Policies 1 and 2 of the South East Lincolnshire Local Plan, 2019.

Whilst the Authority has had regard to the community benefits arising from the possible provision of self-build housing and the Council's duties in that regard, these matters are not of such weight as to outweigh the identified environmental harm and the conflict with development plan policies.

Summing up, therefore, the adverse impacts of granting permission would demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and National Planning Policy Framework taken as a whole.

Conclusion

The proposal is for residential development in the countryside. Such forms of development are generally unsustainable by definition and contrary to the provisions both of the Local Plan and of National Policy which seek to direct residential development to more sustainable locations and by so doing protect the countryside from harmful and inappropriate development. No special circumstances have been submitted to justify development in this location, and given that the Council can demonstrate a housing land supply far in excess of the 5 year threshold, there are no grounds on the basis of housing need to support development in this location.

On such basis the proposal would conflict with the provisions of the development plan for South East Lincolnshire and with National Policy and planning permission should be refused.

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.