

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H15-1083-23 **Applicant:** Mr J Dooley
Proposal: Bomb shelter with covered access shaft - Retrospective
Location: Gatehouse 112 Town Dam Drove Quadring
Terminal Date: 22nd March 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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

4 - Decision-making
12 - Achieving well-designed and beautiful places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

This is a partially retrospective householder application at Gatehouse, 112 Town Dam Drove, Quadring for a bomb shelter with a covered access shaft. The proposal seeks to convert an existing well into an access shaft with two rooms at the base. Above the access point an entrance shaft shed will be sited. The shelter is to be located 20 metres to the east-south-east of the existing dwelling. The current extent of the above ground structure is 1.8 metre high pillars with a further 400mm steel structure supporting winch gear above. The entrance shaft is 7.5 metres in depth and 1.2 metres wide, with two rooms at the base both measuring 6 metres in length by 2.4 metres in width. A shed will be sited above the entrance shaft measuring 8 metres long, 3.6 metres wide, have a 2.7 metre eaves height and 3.6 metres ridge height. The shed will have a barn style door on the northern elevation with three windows on the east and west side elevations, and a single window on the southern elevation. The shed will be constructed from white painted rendered concrete with a slate tile roof. The windows will be single glazed with security bars.

Supporting information regarding construction states *"vertical entrance shaft will first be constructed by sinking pre cast concrete manhole sections to a depth of 7.5m, doorway will be cut into the lower 3 750mm tall sections allowing for subsequent horizontal excavation. Digging of a small corridor to room 1 will be made permanent by pre cast concrete wall and roof sections with a poured concrete floor. Room 1 will be constructed using the reliable and safe digging shield method bricking behind the shield as it progresses. Room 1 will be finished before room 2 is constructed in the same fashion."*

The above ground structure will consist of a poured concrete shed in the style of a Victorian engine shed in keeping with other structures in the area. Work rate will be slow by virtue of the lack of machinery, at most one compressor, dump truck or a cement mixer will be operated sporadically throughout the build, deliveries will be made by local merchants in vehicles below 20t. A total of approx. 40 ton of spoils will be created, mostly in the form of impermeable clay, this will be slowly added to organic matter and sand before being used as fill to level my garden. Public roads will not be obstructed or require closure at any point. Any work carried out will be done so during the normal working day. Most importantly this is NOT a cut and fill operation, rather than excavating the entire footprint of the underground structure, the structure will be built underground without disturbing the ground."

The application form states that work commenced on the bomb shelter on Wednesday the 8th of August 2018.

A site visit was conducted on Friday the 5th of January 2024.

SITE DESCRIPTION

The proposal is located outside of defined settlement limits within the domestic curtilage of 112 Town Dam Drove. There are no dwellings in the immediate vicinity and the site is served by two heavily potholed tracks, one which is named Stong's Drove. Town Dam Drove continues to the west of the site beyond a railway line running between Spalding and Sleaford with stations beyond. The nearest dwellings are Wisteria Cottage 258 metres to the west, Priestly House 377 metres to the north west, a property also named Gatehouse on Church End 381 metres to the north west, another property named Gatehouse at 111 Town Drove 278 metres to the south, and The Cottage Stables 305 metres to the south.

The site is bordered by the railway line to the west, and arable fields to the north, east and south. The location where the entrance shaft shed will be located is in Flood Zone 3. Whilst the dwelling is located in Flood Zone 1, all other parts of the site are in Flood Zone 3. The site is not located in an area of flood hazard or increased flood depth on the 2115 South Holland Strategic Flood Risk Mapping.

RELEVANT HISTORY

None

CONSULTATION RESPONSES

Initial Responses Received (Consultation period between the 22 December 2023 to 15 January 2024)

South Holland District Council - Environmental Protection - Oliver Abrams - 10 January 2024

No comments

Lincolnshire County Council - Highways & SUDS - 11 January 2024

Additional Information Required - *"Stongs Drove and Town Dam Drove are very narrow single track roads that lead to the site. Construction details are required in respect of vehicle movements and the types/sizes of vehicles that will be accessing the site during construction."*

Network Rail - 15 January 2024

No observations.

Quadring Parish Council - 16 January 2024

"The Council feel that this application could cause safety issues to both the residents and members of the public due to the depth of the underground tunnel being built. There will also be issues with underground water and possible subsidence."

Welland & Deepings Internal Drainage Board - 18 January 2024

No comment.

Lincolnshire County Council - Highways & SUDS - 23 January 2024

Following the initial Highways consultation response requesting further construction details, the following has been submitted by the applicant:

"Stongs drove and town dam drove have been adequate so far, I will continue to request the builders merchant only send 2 axle 10ton grabs when delivering materials, everything else comes on site in my 1 ton truck other than the rare instances I hire equipment which is delivered via 7.5 ton lorry, I have never had any issues or complaints due to these activities as there is space for the vehicles to turn and drop without blocking the road, there is also no through traffic other than pedestrians and so no reason for any vehicle to be down these roads unless they are visiting my property or working the fields."

"Construction equipment on site consists of my dump truck which will not be operated on public highway."

"Note. 1 Farm traffic throughout the year will consist of excavators in the 15t to 20t range clearing dykes, large tractors with flails clearing dykes, harvesters and beet carting in large tractors with 20t trailers fully loaded using portions of the road, there is no conceivable reason my activities would require any vehicles this size or in these numbers."

"Note. 2 There is farm access to my house from Town Drove which I use with permission of the farmer when I have in the past required articulated lorry access for reasons not related to my current construction project."

Following receipt of the additional information, the County & Highways Officer has stated:

No objections - The Officer requests a highways informative has been requested concerning potential costs should damage occur to the highway.

"The application is for the installation of a Bomb shelter with covered access shaft - Retrospective. The applicant has confirmed that he will continue to request the builders merchant only send 2 axle 10 tonne grabs when delivering materials, everything else comes on site in his 1 tonne truck other than the rare instances he hires equipment which is delivered via 7.5 ton lorry. There have never been any issues or complaints due to these activities. There is space for the vehicles to turn and drop without blocking the road, there is no through traffic other than pedestrians. The proposal is being well managed and is not causing any issues with regards to highway safety."

"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."

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 Consideration of the Character and Appearance of the Area
Impact on Residential Amenity/Land Users
Parking / Highway Safety
Flooding Considerations / Drainage
Outstanding matters from representation

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 above.

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

Presumption in Favour

Paragraph 10 of the National Planning Policy Framework details that "so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)".

Paragraph 11 expresses that for decision-taking this means: "c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Principle of Development and Sustainability

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. The proposal site is located a countryside location.

Whilst the proposal is in the open countryside the building and bomb shelter is located entirely within the domestic garden of the property. The proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the amenities of neighbouring buildings, and parking provision which are discussed in turn as follows.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed 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.

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. Development proposals should also ensure that developments 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, among other considerations.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The layout of the proposal is such that once completed only the shed covering the access shaft will be visible above ground level. The shed will be constructed from white painted rendered concrete with a slate tile roof. The windows will be single glazed with security bars. The design, scale and character of the building is not considered to be out of keeping with that of a standard rural vernacular building. The building will not visually prominent due to the distance to other properties, with the nearest being sited 258 metres away. Additionally the adjacent track and Stong's Drove is not heavily trafficked. Therefore it is considered that the building will present as a rural character curtilage building, with no suggestion as to the bomb shelter use underground.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

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.

The nearest dwelling is located 258 metres away from the proposal site. The adjacent track and Stong's Drove is not heavily trafficked. There is not considered to be an overdevelopment of the site. A large amount of residential garden land remains to the south and west of the barn area. Due to the fenestration being sited at ground floor level and the separation distances to other dwellings there is not considered to be an overlooking impact. Additionally, there is not considered to be an overshadowing impact from the 3.6 metre ridge height. This is due to the separation distance of 258 metres to the nearest dwelling.

There is not considered to be an impact on the railway line beyond the western site boundary. The bomb shelter and accompanying building above are more than 20 metres away from the line. Network Rail have responded when consulted to state that they have no observations as to the proposal.

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 nearby properties or adjacent 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, and Policies 2 and 3 of the Local Plan.

Parking / Highway Safety

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".

Within this context, development should give priority first to pedestrian and cycle movements, facilitate access to high quality public transport, address the needs of people with disabilities and reduced mobility in relation to all modes of transport, safe, secure and attractive places, allow for efficient delivery and access for emergency services, and be designed to enable and encourage ultra-low emission vehicles in safe, accessible and convenient locations.

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.

The proposed barn and access shaft is located on existing garden land. There is not considered to be an impact on parking provision, manoeuvrability or highway safety by virtue of the location and lack of traffic along the access track and Stong's Drove to the site. Following the submission of further details the County Highways Officer confirmed that they have no objections, and a highways informative has been requested concerning potential costs should damage occur to the highway.

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, 36 and Appendix 6, as well as Section 9 of the National Planning Policy Framework.

Flooding Considerations / Drainage

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 168 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 Zone 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 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 site is bordered by the railway line to the west, and arable fields to the north, east and south. The location where the entrance shaft shed will be located is in Flood Zone 3. Whilst the dwelling is located in Flood Zone 1, all other parts of the site are in Flood Zone 3. The site is not located in an area of flood hazard or increased flood depth on the 2115 South Holland Strategic Flood Risk Mapping. Provided the shelter is appropriately constructed, it is not considered to be at increased flood risk.

Outstanding matters from representation

None

PLANNING BALANCE

As detailed above, 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.

The proposal represents appropriate development within the domestic curtilage of a rural residential garden. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (December 2023) when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

CONCLUSION

This application is considered to accord with Policies 1, 2, 3, 4, 36 and Appendix 6 of the South East Lincolnshire Local Plan, 2019, as well as Sections 4, 12 and 14 of the National Planning Policy

RECOMMENDATION

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

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.