

Julian Warrick  
8 Beech Grove  
Donington  
Spalding  
Lincolnshire  
PE11 4XQ

Council Offices  
Priory Road  
Spalding  
Lincolnshire  
PE11 2XE  
Admin 01775 764725  
DC Officers 01775 764703  
  
planningadvice@sholland.gov.uk  
www.sholland.gov.uk

## **TOWN AND COUNTRY PLANNING ACT 1990**

### **FULL**

|                     |                                                                                                                                     |                          |                   |
|---------------------|-------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------|
| <b>Reference:</b>   | H16-0265-24                                                                                                                         | <b>Date of Decision:</b> | 24th October 2024 |
| <b>Applicant:</b>   | Mrs K Cusack<br>15 Cley Hall Drive<br>Spalding<br>Lincolnshire<br>PE11 2DZ                                                          |                          |                   |
| <b>Location:</b>    | Rear Of 76 Commercial Road Spalding Lincolnshire                                                                                    |                          |                   |
| <b>Description:</b> | Removal of existing flat roofed building including new redefined rear boundary and erection of 3 houses with associated car parking |                          |                   |

**South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):**

- 1 The proposal, by reason of its size, bulk, height, massing, materials and design, represents inappropriate, incongruous and cramped form of development which is considered to comprise overdevelopment, which is out of keeping with the locality, character and appearance of the area, creating adverse amenity for the future occupiers, together with loss of outlook, overlooking and loss of privacy for existing nearby residential occupiers.

As such the proposals conflict with policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, which seek to ensure that proposals create distinctive places that are in keeping with the area in terms of size, scale, layout, use of traditional styles and materials and do not adversely impact residential amenity. The proposals fail to improve the character and quality of the area, fails to respect the existing scale and massing of existing development, and creates visual closure. As such the proposal conflicts with Paragraph 128 (d) and (e) of the National Planning Policy Framework, December 2023, which is concerned with the desirability of maintaining the area's prevailing character and setting (including residential gardens), together with the importance of securing well-

designed, beautiful, attractive and healthy places.

- 2 The proposal removes virtually all green/amenity space from the site to replace it with hard surfacing in the form of paving, car parking and vehicle access areas. It therefore fails to incorporate measures which promote and enhance green infrastructure and provide an overall net gain in biodiversity, as required by Policy 28 of the South East Lincolnshire Local Plan, 2019 which seeks to improve the resilience of ecosystems within and beyond the site.

As such, it fails to demonstrate that the consequences of climate change have been addressed, by minimising or mitigating climate change and biodiversity measures, and is thereby contrary to Policy 31 of the South East Lincolnshire Local Plan, 2019. The proposal conflicts with Paragraph 135 (f) of the National Planning Policy Framework, December 2023, which states that developments should "create places that are safe, inclusive and accessible and which promote health and wellbeing", and policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 due to it representing design inappropriate to the local area, failing to maximise opportunities for improving character and quality, residential amenity, new landscaping to enhance biodiversity and green infrastructure.

- 3 The proposed dwellings do not incorporate sufficient internal minimum gross internal and built in storage space set out by the Nationally Described Space Standards, as required by Footnote 52 of Paragraph 135 (f) of the National Planning Policy Framework, December 2023.

As such the proposals are contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, which seek to ensure that residential amenity is protected, and that an adequate standard of residential accommodation and residential amenity is provided for future occupiers.

- 4 Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardised biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain (BNG).

In this instance, a Biodiversity Net Gain Exemption Statement, or a BNG baseline metric was not submitted with the application. The application was submitted on the 25 March 2024 but the application was not validated until the 16 April 2024 as it was initially invalid. Biodiversity Net Gain was mandatory for minor applications from the 2 April 2024 onwards. As the application was validated after the 2nd April 2024 this triggers the need for BNG. The lack of BNG or a BNG Exemption Statement is a clear contradiction with the mandatory requirements as set out by Schedule 7A to the Town and Country Planning Act 1990. As such the proposal would clearly be required to conform with BNG requirements, with this application requiring the submission of the BNG baseline metric amongst other details. The proposal being submitted prior to the 2nd April 2024 does not result in the development being exempt, due to the fact that it was invalid.

Notes:

The determined plans are:

Application Form

Planning Design and Access Statement Reference J188-PDA-rev A by Julian Warrick dated 4/2/24

J188-PL 4

J188-PL 5

J188-PL 6

Drainage Plan by Anglian Water reference B16-0492-16 dated 4/12/2015

Preliminary Flood Risk Assessment by Oakshire Environmental dated 15 March 2024

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. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

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



**Phil Norman**

**Assistant Director - Planning and Strategic Infrastructure  
South Holland District Council**

## RIGHTS OF APPEAL

### Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

### Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

| 12 Weeks                                | 6 Months                          | 8 Weeks                    |
|-----------------------------------------|-----------------------------------|----------------------------|
| Householder Applications                | Planning Permission               | Consent to Display Adverts |
| Minor Commercial Development            | Listed Building Consent           |                            |
| Agricultural Determinations             | Other Prior Approval Applications |                            |
| Householder Prior Approval Applications |                                   |                            |

<https://www.gov.uk/appeal-householder-planning-decision>

<https://www.gov.uk/appeal-planning-decision>

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planning-inspectorate.gov.uk](mailto:inquiryappeals@planning-inspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

### Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice OR the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

### **Purchase Notices**

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

### **Compensation**

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.