

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H16-0543-25	Applicant:	Mr R Campanaro
Proposal:	Residential Development - Erection of Detached Dwelling. Approved under H16-1051-22. Modification of Condition 1 to allow amendments to previously approved plans		
Location:	Tidswell Bungalow Burr Lane Spalding		
Terminal Date:	29th July 2025		

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
28	The Natural Environment
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 9 - Promoting sustainable transport

Section 12 - Achieving well-designed 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
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

OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Section 73A of the Town and Country Planning Act, 1990, seeking to vary Condition 1 H16-1051-22, relating to approved plans. It is proposed that the chalet bungalow approved under H16-1051-22 would become a wholly ground floor bungalow. This would result in an increase in footprint from approximately 127sqm to 147sqm, and a reduction in total internal floor space from 204sqm to 127sqm. Alongside this, two roof lights are proposed in the kitchen area.

H16-1051-22 was a Reserved Matters application for a residential development, relating to outline approval H16-0330-20.

Site Description

The site is located outside of any settlement boundary outlined in the South-East Lincolnshire Local Plan, 2019, but is within a small residential area. There is defined frontage development on each side of Burr Lane. The character is predominantly residential in a countryside setting. There is a range of designs, appearances, and ages along the street scene; although the prevailing building is a gable roofed bungalow. Despite this prevailing building type, there is a growing prominence of two-storey detached dwellings. There is no prevailing colour scheme present.

The proposed site is currently the domestic garden and driveway of the dwelling Tidswell Bungalow. The driveway runs to the east and extends to the rear of the garden and backs onto the yard of the neighbouring property 19B Fen End Lane. A sheltered structure stands in the driveway. The intended dwelling will be flanked by a large bungalow to the west and a recently built two-storey detached house.

Relevant History

- H16-0330-20 - Outline. Residential Development - chalet bungalow. Approved 11/06/20.
- H16-1051-22 - Reserved Matters. Residential Development - Erection of Detached Dwelling - Outline Permission H16-0330-20. Approved 05/06/23.
- H16-0505-25 - Condition Discharge. Details of existing & proposed site & floor levels & foul & surface water disposal (Conditions 4 & 5 of H16-0330-20). Approved 23/05/25.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

South Holland Internal Drainage Board

"Thank you for your consultation on planning application H16-0543-25. 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."

Highway and Lead Local Flood Authority

"The application is for a Residential Development - Erection of Detached Dwelling. Approved under H16-1051-22. Modification of Condition 1 to allow amendments to previously approved plans. Changing from a three-bed dwelling with a garage adequate to accommodate one car to a three-bed bungalow and a garage that is not the correct size to accommodate a car. A bungalow of this size should provide 2 parking spaces which is achievable. The changes will not have an adverse impact on the public highway."

Environmental Protection

No comments

National Grid

No observations

Public Representations

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

This can be summarised as:

-Concern regarding proximity to boundary fence

Key Planning Considerations

Evaluation - S73

The proposal seeks to vary Condition 1 of H16-1051-22, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 1 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development. It should be noted at this time that the original outline permission did specify a chalet bungalow; however, this application seeks to modify the reserved matters application which did not specify this.

In the case of *R (Vue Entertainment Limited) v City of York Council*, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an

amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Evaluation - Key Considerations

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 adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

The principle of development has been established within the host application, H16-1051-22, and previous outline application, H16-0330-20. As such, there is no need to revisit the principle of development here.

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

Section 12 of the NPPF, "Achieving well-designed places", states 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 NPPF, 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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. 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.

The proposed dwelling would be broadly consistent with the character of the area. Bungalows are typical in this area, as evidenced by the adjacent property, and therefore, the reduction in height to remove the first floor element would bring the proposal more in line with the established built form. The reduction in height would reduce the visual bulk of the development, thereby reducing the overall character impacts emerging from the development. The footprint is marginally greater than the existing approval, and would sit far closer to the boundary; however, it is not considered on balance that this would result in the plot appearing overdeveloped, partly due to the reduction in verticality proposed and overall reduction in bulk.

Likewise, the newly proposed design closely matches those present in the area, particularly that of the adjacent dwelling, further naturalising the proposal. The overall scale and mass are relatively consistent with the wider built form of the area, further integrating the design. While the loss of details such as dormer windows are somewhat regrettable, making the proposal appear plainer, it is not considered that the loss of these elements would be harmful to the overall appearance of the resultant building or the wider character of the area.

No changes to boundary treatments are proposed here.

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 SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

While the proposal would sit closer to the eastern boundary, it is considered that the reduction in the height of the building would ensure no significant overshadowing occurs.

The eastern facing roof lights may result in some views towards the first floor windows of the neighbouring dwelling. However, these would be at an oblique angle, thereby reducing their impact. In any event, as these windows face onto the public realm, comparable views could be achieved from the public realm irrespective of the outcome of this decision. As such, the actual harm is negligible.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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, following mitigation, would be severe, taking into account all reasonable future scenarios".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, 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.

Parking and access arrangements have not been altered here.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "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". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states that "the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

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 process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall"

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 SELLP 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 SFRA as a basis to apply the sequential test.

Within the SFRA, the site is classified as "danger for some" with hazard depths of up to 0.25m.

It is not proposed that the site levels, agreed under H16-0505-25, would change. This provides a finished floor level of 10.3m which is considered appropriate given the existing onsite conditions, flood risk, and floor levels of neighbouring dwellings. The finished floor level would be above expected flood depths, and therefore, there is no flood risk related need for the first floor element.

No changes to the site drainage, approved under H16-0505-25, are proposed. The minor increase in footprint would not significantly alter on site drainage, and therefore, the provisions provided are considered acceptable.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Biodiversity Net Gain

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 standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

As a S73 application, seeking to modify a permission granted prior to the introduction of the statutory condition, the proposal is exempt from the need to demonstrate biodiversity net gain and the standard condition.

Outstanding Matters From Representation

Concerns were raised from a member of the public regarding the proximity to the boundary fence shown on the initially submitted plans. The arrangement has been clarified with the Agent, who has demonstrated that a space of 500mm will be left to the boundary. This is considered sufficient to allow for access and maintenance and to prevent any intrusion upon the neighbouring property.

Conditions

The proposal is to amend Condition 1 of H16-0330-22, which was a Reserved Matters application following on from outline approval H16-0330-20. As Reserved Matters application, the only condition previously imposed related to development in accordance with approved plans. It is considered appropriate to retain this condition. Seeing as the materials proposed have been altered, it is also considered appropriate to add a condition to control the materials of construction.

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 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 SELLP and the provisions of the NPPF when viewed as a whole.

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.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 28, 33 and 36 of the SELLP, as well as Sections 9, 12, 14 and 15 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

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