DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0816-24**	**Applicant:**	**Mrs E Bodimead**
Proposal:	Residential - Erection of Dwelling		
Location:	Rear Of 28 Hawthorn Bank Spalding		
Terminal Date:	25th November 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
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 5 - Delivering a sufficient supply of homes
Section 11 - Making effective use of land
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
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
WELLAND AND				

DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

This is a outline planning application seeking permission for the erection of a dwelling at the rear of 28 Hawthorn Bank, Spalding.

Site Description

The site is located within the defined settlement boundary of Spalding as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP).

History

H16-0924-21 - Erection of Bungalow - Approved

Consultation Responses

Welland and Deepings Internal Drainage Board

No comment.

Lincolnshire County Council Historic Places Team

Thank you for consulting us on this.

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Lincolnshire County Council Highways

Requests that the Local Planning Authority request the applicants to provide additional information as set out below.

Additional Information Required

The proposed site plan shows the access at the existing dwelling to be 4.4m - the access width should be detailed at the highway boundary. It shall be a minimum of 4.1m.

South Holland District Council Environmental Protection

No comments.

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 and Drainage
- Biodiversity

Evaluation

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.

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 (December 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 able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Planning Considerations

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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Main Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

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 is within Spalding, a Sub-Regional Centre, and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location would typically be considered appropriate, where development comprises infill development or that on allocated/ committed sites.

Policy 1 identifies that within Sub-Regional Service Centres development would be permitted that supports their roles as a sub-regional centre. Whilst it does not specifically mention infill, allocated or committed sites, it is important to note that the development is considered to be back land in this instance. It is not on an allocated site and is set to the rear of 28 Hawthorn Bank. Furthermore, there has been permission on site for an outline application for the erection of a bungalow with the plans in this instance being identical, this was approved under H16-0924-21 with the three year window for the submission of a reserved matters application expiring on October 20th 2024; the permission for this has therefore lapsed meaning the previous application is considered to hold little weight in the deciding of this application. The LPA must make a decision assessing all the relevant factors in relation to this application rather than making any further reference to the 2021 application.

Within the preceding application, the officer stated that *'The bungalow would be located in the rear garden of the host dwelling. There are a number of similar developments within the locale and this form of development would not be out of character with the general form of this part of Spalding*. The Site Location Plan (Drawing Number 3179-01) also references four sites in the immediate area which are 'Examples of back land development within close proximity of the site'.

Whilst the LPA do not dispute the fact these are back land developments weight must be given to the size of the plots, the scheme in which they presented plus the fact there were all approved under a different and older local plan. To go into further detail, the following applications are those that have been referenced:

- H16-0197-88

- H16-0186-02
- H16-0180-04

- H16-0599-10
- H16-0101-11
- H16-1023-13

- H16-0122-06
- H16-0945-08

As outlined in the previous application, these sites were all for much large scale developments on larger plots which were able to support them, the LPA therefore take the view that these applications cannot be given weight to approve this application as they are dissimilar and each application must be assessed upon their own characteristics and merits which in this case are through size, scale, layout and the policies they have been assessed against.

Furthermore, there are minimal examples within the immediate area of back land development with the majority of properties along Hawthorn Bank being set to the front of their plots. Approving such an application could set a precedent for other properties to the south east to also erect residential dwellings in their rear gardens which would appear harmful and incongruous to the surrounding area;

Although the 2021 outline application was assessed under the same local plan, that being the SELLP, upon assessment in this instance due to the issues outlined above and throughout various sections within this report the erection of a residential dwelling to the rear of 28 Hawthorn Bank is no longer considered to be acceptable and would set a harmful and unacceptable precedent in which the LPA cannot and will not approve.

In addition to this, the Council are able to demonstrate a more than adequate supply of deliverable sites equivalent to 6.4 years through the latest Housing Land Supply Assessment which is in accordance with the National Planning Policy Framework (December 2023) and Planning Practice Guidance and there is therefore minimal need for the LPA to approve a dwelling in such an unsuitable location.

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 and beautiful 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.

Likewise, 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.

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 proposal is in its outline form, however, an indicative site layout plan has been provided within the application. This proposes a single storey bungalow, the scale of which is around 94sqm when measured through the proposed block plan, but detailed design is reserved.

Although no details of the materials have been submitted, if outline approval was given, a subsequent application would have to be made to ensure that the materials are in keeping with the character of the area with the visual amenity of the development being determined when these details have been provided.

The plot would be located in the rear garden of 28 Hawthorn Bank with access being provided via the demolition of an existing single storey extension at the host dwelling. Whilst it would leave adequate room for the existing dwelling to have amenity space, a proposal in this location would appear cramped and contrived and would appear at odds within the surrounding area due to it being located in the back garden. As no other properties feature such a design this would set a harmful precedent in the area most notably for the plots directly north and south with it not being considered that any other dwellings could achieve this. The proposal would not be able to alter the layout of the dwelling to accommodate it better within the plot without significantly reducing the scale plus significant harm would be caused due to it appearing at odds with the area.

Taking account the scale and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character and appearance of the area and would therefore conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

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.

Despite being only indicative plans, the proposal dwelling has been labelled as a single storey bungalow. From this, 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.

The dwelling would benefit from an adequate sized garden to the west of the dwelling. However, the proposal is in its outline form and further details should be considered to conclude the extent to which the scheme would ensure good levels of amenity.

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.

Flood Risk and 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 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.

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 lies within Flood Zone 3 of the Environment Agency's Flood Maps. The latter 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. However, the maps are broad brush and do not take into account any flood defences. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

When viewing the site on the South Holland Strategic Flood Risk Assessment it shows that it is located in an area of no danger, there is therefore considered to be a low actual risk of flooding within this area. The potential sources of flooding outlined within the Flood Risk Assessment are as follows: failure or overtopping of tidal defences of the River Welland, overtopping of the fluvial section of the River Welland, failure or overtopping of the banks of the Vernatt's Drain, failure of Pode Hole Pumping Station (IDB), blockages in IDB drains or culverts and surface water flooding. The recommendations and mitigation measures aim to combat these issues raised, this states that 'it is preferable that new dwellings should be of two storey construction designed with all sleeping accommodation located on the first floor'. It has been recommended that the FFL is set 300mm above surrounding ground levels on the site, due to the low flood risk on site these mitigation measures are considered to be acceptable.

Overall, when considering the development on balance, 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 2023 in this regard.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (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.

As the application is only in outline stage the LPA are not aware of the number of bedrooms the dwelling will hold, we therefore are unable to enforce a minimum number of vehicle parking spaces at this stage.

Lincolnshire County Council have requested further information during the consultation period for this application stating 'The proposed site plan shows the access at the existing dwelling to be 4.4m - the access width should be detailed at the highway boundary. It shall be a minimum of 4.1m'.

Due to the issues raised throughout this report, the LPA do not consider the proposal to be acceptable. As such, the LPA have not sought clarification or amendment in this regard, as it was considered unreasonable for the applicant to submit amended plans, for a case in which the LPA were unable to support. In an instance whereby the LPAs decision was subject to an appeal, a condition would be requested to ensure that such details were provided, in order to resolve the issue.

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.

Biodiversity Net Gain

Biodiversity Net Gain (BNG) is a way of creating and improving natural habitats, it makes sure

development has a measurably positive impact (net gain) on biodiversity. Developers must deliver a BNG of 10% on site and means a development will result in more or better quality natural habitat than there was before development. There are a list of exemptions from the need for BNG with the developer in this instance believing they are exempt for the following reasons -

The site is exempt for BNG under Paragraph 8. (1) The biodiversity gain planning condition does not apply in relation to planning permission for development which -
(a) consists of no more than 9 dwellings
(b) is carried out on a site which has an area of no larger than 0.5 hectares: and
(c) consists exclusively of dwellings which are self building or custom housebuilding

The development of course only consists of one dwelling and therefore conforms to criteria A, it is being carried out on a site which has an area less than 0.5 hectares and thus conforms with criteria B also. Section 1 (A1) of the Self-build and Custom Housebuilding Act 2015 defines self-build and custom housebuilding as the building or completion by - individuals, associations of individuals or persons working with or for individuals or associations of individuals. It does not include the building of a house on a plot acquired from a person who builds the house wholly or mainly to plans or specifications decided or offered by that person.

The BNG Statement goes into no detail about how the property is a self-build or custom housebuilding with the LPA having reason to believe that the applicant would sell the land on to a developer should outline approval be granted as confirmed via correspondence between the applicant and the case officer. The application in this instance would therefore not meet the definition of a self-build or custom housebuilding with no other adequate BNG being provided elsewhere; due to a lack of reasonable exemption and the mandatory 10% not being provided the application should be refused on the basis that it does not accord to the required biodiversity net gain legislation.

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 inappropriate development within the defined settlement boundary. The development hereby proposed would be back land developed of a cramped and contrived nature. It also fails to provide the relevant and mandatory biodiversity levels. Whilst conforming to some sections, it does confirm with the entirety of the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, these are material considerations that weigh against the proposal and as such, the planning balance is not in favour of the development.

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 the above considerations into account, the proposal is considered to be in conflict with Policies 1, 2, 3, 28 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). These are significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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