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# TOWN AND COUNTRY PLANNING ACT 1990

# OUTLINE

| | | | |
|---|---|---|---|
| **Reference:** | H16-0816-24 | **Date of Decision:** | 25th November 2024 |
| **Applicant:** | Mrs E Bodimead<br>28 Hawthorn Bank<br>Spalding<br>PE11 1JH | | |
| **Location:** | Rear Of 28 Hawthorn Bank Spalding | | |
| **Description:** | Residential - Erection of Dwelling | | |

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

1 The site is inside the Spalding Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. However, the proposal would constitute a cramped and inappropriate form of back land development that would be out of character with the area and would set a harmful precedent most notably for 26 & 30 Hawthorn Bank. Reference has been given to examples set out in the immediate area of other existing back land developments however upon further assessment they are on much larger plots for larger scale developments have more than one dwelling. Furthermore, they were all approved under an old and different local plan. Finally, although there is history on the site with permission being granted in 2021 for the same scheme (approved in the same local plan) this permission was never acted on and has therefore since lapsed. As such, this is now no longer considered to be acceptable due to it being back land development and as outlined above would set a harmful and unacceptable precedent along Hawthorn Bank which conflicts with Policy 1 of the South East Lincolnshire Local Plan, 2019 (SELLP) and should be refused for this reason.

2 Policy 2 of the adopted South East Lincolnshire Local Plan (SELLP, 2019) states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses. Policy 3 of the adopted South

East Lincolnshire Local Plan (SELLP, 2019) states that development proposals will demonstrate how an acceptable design of development including residential amenity will be secured. Policy 30 of the adopted South East Lincolnshire Local Plan (SELLP, 2019) states that development proposals will not be permitted where they would lead to unacceptable adverse impacts on the amenities of the area. Paragraph 135 of the National Planning Policy Framework (NPPF, December 2023) states that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and 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. Finally, Paragraph 134 of the National Planning Policy Framework (NPPF, December 2023) states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The proposal would appear cramped and contrived and would appear at odds within the surrounding area due to it being located in the rear garden of 28 Hawthorn Bank. In a similar light to the previous reason for refusal, no other properties feature such a design and this would set a harmful precedent in the area. The proposal would not be able to alter the layout of the dwelling to accommodate it in a more suitable manner 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, 2019 and Section 12 of the National Planning Policy Framework (December 2023).

3 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. 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.

An existing single storey extension will be removed from the side elevation to allow for the access and will run down towards the rear of the site where the proposed dwelling would be located. Due to the positioning of the access being located adjacent to No. 28 there is considered to be an unacceptable harm caused by the comings and goings of vehicles significantly close to the frontages of both 26 and 28 Hawthorn Bank. This would conflict with both Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 due to adverse increase in noise and should be refused for this reason.

4 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.


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The provided BNG Exemption Statement does not provide detail on how the proposed residential dwelling would be a self-build or custom housebuilding, alongside this, the Local Planning Authority have been in correspondence with the Applicant and have reason to believe that the land, should it receive outline approval, will be sold on to a developer for the construction of the dwelling. In this instance, it would not meet the definition of a self-build or custom housebuilding with no other biodiversity measures presented. The applicant has also noted under Section 17 of the Application Form that the proposed housing would be 'Market Housing' and not a self-build, further evidencing the fact the property would not meet the definition and requirements.

In any event, Paragraph 180 (d) of the National Planning Policy Framework (December 2023) sets out that planning decision should contribute to and enhance the natural and local environment by minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures. By erecting a dwelling on this site it would remove a significant number of trees and hedges which would harm biodiversity.

Overall, due to a lack of reasonable and justifiable exemption paired with the failure to provide the mandatory 10% biodiversity requirements the application should be refused on the basis that it is not in accordance with government legislation surrounding Biodiversity Net Gain.

Notes:

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. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that 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

The determined plans are:

Application Form
3179 01
3179 02
BNG Exemption Statement
Flood Risk Assessment



**Phil Norman**

# 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) 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.