DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0852-21**	**Applicant:**	**Mr M Payne**
Proposal:	Proposed replacement dwelling - re-submission of H16-1102-20		
Location:	Gate Farm Holbeach Road Spalding		
Terminal Date:	10th November 2021		

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
17	Providing a Mix of Housing
22	Replacement Dwellings in the Countryside
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flood risk and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a full application for a proposed replacement dwelling at Gate Farm, Holbeach Road, Spalding. The application is a re-submission of the previously refused H16-1102-20 (refusal reasons set out further below).

Although the revision letter on each of the four drawings has changed, the proposal remains the same as that refused. In addition, there has only been a minor update to the Flood Risk Assessment and Design & Access Statement.

The proposal remains a large 3-bedroom dwelling with the majority of rooms at ground floor and only a garden room at 'first floor' which opens onto a garden roof. The dwelling would be contemporary in appearance with artificial green walls alongside brickwork and stone. The roof would be flat for the most part and accessed via either the garden room or a sloping retaining wall at the northern end.

The dwelling would be significantly larger than the existing property it is to replace and would be sited further east within the site.

Previous reasons for refusal

"1. The proposal as presented is contrary to Policy 4 of the South East Lincolnshire Local Plan (2019) which requires proposals in Flood Zone 3 to be supported by a site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change and which:
b) identify the relevant predicted flood risk (breach/overtopping) level, and mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source
c) propose appropriate flood resistance and resilience measures (following the guidance outlined in the Strategic Flood Risk Assessment), maximising the use of passive resistance measures (measures that do not require human intervention to be deployed), to ensure the development maintains an appropriate level of safety for its lifetime.

The submitted site-specific flood risk assessment concludes that a finished floor level of 300mm above existing ground level is suitable when considering the current bungalow level and no history of flooding in the last 80 years. It does not identify the South East Lincolnshire Strategic Flood Risk Assessment (2019) (SFRA) as the correct basis for determining flood risk and does not propose appropriate flood resistance and resilience measures following the guidance outlined in the SFRA. The SFRA shows the site as falling within a 'danger for most' hazard zone, with predicted depths of up to 1m. The Flood Risk Standing Advice Matrix indicates that finished floor levels in such circumstances must be a minimum of 1m above existing ground level. Finished floor levels of 300mm would therefore not be sufficient to mitigate flood risk.

2. It is considered that the proposed replacement dwelling would have a material adverse impact on the character and appearance of the area by virtue of its positioning, size and overall appearance and would therefore be contrary to Policies 2, 3 and 22 of the South East Lincolnshire Local Plan (2019).

Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development

proposals to respect the density, scale and massing of neighbouring buildings and the landscape character of the location. Policy 22 requires that the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality."

Site Description

The existing dwelling is a modest size bungalow that is of no architectural or historic merit, being constructed of red brick and grey pantiles. It is set within a large plot, the majority of which is grassed, and also accommodates a barn type building.

Access is off Swindlers Drove to the west. There are offices of a labour provider to the south, agricultural fields to the east and Holbeach Road to the north. Large trees line approx. half of the northern boundary followed by more newly planted shrubs that are yet to become established along the remainder. A small number of properties
are located on the opposite side of Swindlers Drove fronting on to Holbeach Road.

History

H16-1102-20 - Proposed Replacement Dwelling (refused April 2021)

H16-0624-13 - Proposed replacement dwelling (re-submission of H16-1065-12) (approved September 2013)

H22-0849-12 - Occupation of dwelling by persons not employed in agriculture (Condition 2 of SR103-69) (Lawful Development Certificate issued December 2012)

H16-1065-12 - Proposed replacement dwelling (withdrawn February 2013)

H16-0845-99 - Construction of kennel block (approved October 1999)

Consultation Responses

LCC Highways/SUDS - Does not wish to restrict the grant of permission.

South Holland Drainage Board - Recommends that the proposed drainage strategy is supported by ground investigation to determine the infiltration potential of the site and the depth to groundwater. Highlights consents that may be required.

Environment Agency - In the absence of an acceptable Flood Risk Assessment (FRA) we object to the grant of planning permission. The FRA submitted with this application does not comply with the requirements set out in the Planning Practice Guidance, Flood Risk and Coastal Change section, paragraph 030. It does not, therefore, provide a suitable basis for assessment to be made of the flood risks arising from the proposed development.

The submitted FRA (Peter Humphrey Associated Rev B dated 16/08/2021) has not considered the hazard mapping and therefore the proposed FFL of 300mm above existing ground levels is too low.

The 0.1% (1 in 1000) plus climate change hazard maps shows the location of the proposed dwelling with ground floor sleeping to be located in an area with potential depths of more than 2m.

The S.Lincs standing advice (http://www.southeastlincslocalplan.org/south-eastlincolnshire-strategic-flood-risk-assessment-march-2017-appendix-c-standingadvice-other-maps/) states for depths greater than 1.6m "It is unlikely that mitigation measures would prevent flood water from entering the building at ground floor level. Therefore, proposals must have a minimum of 2 storeys with no ground floor habitable accommodation. The first floor living accommodation must be above the highest predicted flood depth".

The site layout should be reconsidered as the location of the existing bungalow is in lower hazard depths with maximum depths of 1m. The standing advice for this depth is "FFL must be set 1m above ground level, with flood resilient construction to a height of 300mm above the predicted flood depth".

Planning Considerations

Principle

Policy 22 of the South East Lincolnshire Local Plan, 2019 indicates that proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that:
1. the residential use of the building to be replaced (the original building) has not been abandoned;
2. the original building is permanent, has not become derelict and is not the result of a temporary permission;
3. the original building is not of architectural or historic merit and is not capable of repair;
4. the replacement building is of a high standard in terms of architectural detailing and materials of construction;
5. the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality; and
6. the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency.

Addressing the above:
1) the residential use has not been abandoned. It is still occupied as a dwelling.
2) the original dwelling is still in situ and is of permanent construction.
3) it is not considered to be of significant architectural or historic merit.
4) the proposal, which remains unchanged from the refusal, is considered to be of a high standard in terms of design, etc, incorporating both traditional and contemporary features and using attractive materials of construction.
5) the dwelling is not sited on a similar footprint to the original building, being set approx. 8m further east at the closest point, and no justification has been provided as part of this re-submission as to what the beneficial impact(s) of this might be.
6) the replacement dwelling remains significantly larger than the original dwelling, being far in excess of 40% greater in size. However, it is considered to be of a high standard in terms of design, etc, incorporating both traditional and contemporary features.

The proposal therefore largely accords with the provisions of Policy 22, with the exception of criterion 5. The impact of siting the replacement on a different footprint is considered further below.

Impact on character and appearance of the area

The visual appearance and siting of the proposed replacement dwelling remains the same as that previously refused. The following paragraphs of this section are therefore repeated verbatim from the previous report.

The proposal is for a 3-bedroom dwelling of a considerable footprint with the majority of rooms at ground floor and only a garden room at 'first floor' which opens onto a garden roof. The dwelling would be contemporary in appearance with artificial green walls alongside brickwork and stone. The roof would be flat for the most part and accessed via either the garden room or a sloping retaining wall at the northern end.

The dwelling would be significantly larger than the existing property it is to replace and would be sited further east within the site. By virtue of this, it would be more visually prominent than the existing bungalow which is largely screened by the established trees and hedging on the northern and western boundaries respectively. The eastern boundary is mostly open and the Hornbeam hedging to the northern and part of the eastern boundary is newly planted and will take time to establish. The A151 is a main route into and away from Spalding and the dwelling would be highly visible to passing motorists.

Whilst it is appreciated what the applicant is seeking to achieve in terms of design, the appearance of the proposed replacement dwelling would clearly be at odds with the existing local vernacular given its contemporary appearance and flat roof, and its size (footprint) would draw the eye even further.

It is noted that permission was previously granted in 2012 for a replacement dwelling on the site, however this covered a smaller footprint and was more traditional in appearance, reflecting the Georgian heritage of Spalding.

Taking the above into account, it is considered that the proposed replacement dwelling would have a material adverse impact on the character and appearance of the area and would therefore be contrary to Policies 2 and 3 of the Local Plan. Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the density, scale and massing of neighbouring buildings and the landscape character of the location.

Residential amenity

As the scale, arrangement of fenestration and siting of the proposed replacement dwelling remains the same as that previously refused, the following paragraphs of this section are repeated verbatim from the previous report.

The closest dwelling is approx. 40m away to the west/north-west and the offices to the south are approx. 50m away. At such distances it is not considered that there would be a material adverse impact in terms of overlooking, loss of light/overshadowing or being overbearing.

The offices are occupied by a recruitment company, which is a low noise generating use and compatible with residential properties.

Taking the above into account, the proposal is considered to be in accordance with Policies 2, 3 and 30 of the Local Plan with regard to residential amenity.

Highways and parking

As access and parking arrangements remain unchanged, the following paragraphs of this section are repeated verbatim from the previous report.

The Highway Authority have no objection to the proposal given that the access arrangements would remain unchanged and off road parking and turning is provided. The proposal is therefore considered to be acceptable on highways grounds and in accordance with Policy 2 of the Local Plan which requires it to be demonstrated that access and vehicle generation levels will be acceptable.

Appendix 6 of the Local Plan sets out parking standards for residential dwellings and states that 2 vehicle parking spaces are required for dwellings with 3 or more bedrooms. The proposed vehicle parking arrangements are in accordance with this.

Flood risk

The site is within Environment Agency Flood 3 and the South East Lincolnshire Strategic Flood Risk Assessment (SFRA) (2019) fluvial and tidal hazard mapping shows the site to be at risk of 2 metre plus depths (1% Fluvial / 0.5% Tidal, Year 2115). The Flood Risk Standing Advice Matrix indicates that for depths greater than 1.6m "It is unlikely that mitigation measures would prevent flood water from entering the building at ground floor level. Therefore, proposals must have a minimum of 2 storeys with no ground floor habitable accommodation. The first floor living accommodation must be above the highest predicted flood depth".

However, the submitted flood risk assessment concludes that a finished floor level of 300mm above existing ground level is suitable when considering the current bungalow level and no history of flooding in the last 80 years, and habitable accommodation is indicated at ground floor on the plans. In light of this, the Environment Agency have objected to the application.

Whilst it is appreciated that flood events may have been few and far between historically, the SFRA mapping used to ascertain appropriate floor levels takes into account climate change and the potential for more frequent and significant flood events in the future.

The proposal as presented is contrary to Policy 4 of the Local Plan which requires proposals in Flood Zone 3 to be supported by a "site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change and which:
b) identify the relevant predicted flood risk (breach/overtopping) level, and mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source
c) propose appropriate flood resistance and resilience measures (following the guidance outlined in

the Strategic Flood Risk Assessment), maximising the use of passive resistance measures (measures that do not require human intervention to be deployed), to ensure the development maintains an appropriate level of safety for its lifetime."

Planning Balance

The current proposal is for all intents and purposes the same as that previously refused, therefore it is considered that the planning balance remains the same.

Whilst the proposal is considered acceptable in terms of residential amenity and on highway grounds, the proposed finished floor levels and living accommodation arrangements would not be sufficient to mitigate flood risk and it is considered that the proposed replacement dwelling would have a material adverse impact on the character and appearance of the area by virtue of its positioning, size and overall appearance.

The planning balance is therefore considered to be against the proposal.

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 into account, the proposal is considered to still be contrary to Policies 2, 3, 4 and 22 of the South East Lincolnshire Local Plan (2019), as well as Sections 12 and 14 of the National Planning Policy Framework (2019).

The recommendation is therefore for a delegated refusal.