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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H16-0852-21 **Date of Decision:** 9th November 2021

Applicant: Mr M Payne
Gate Farm
Holbeach Road
Spalding
PE12 6JR

Location: Gate Farm Holbeach Road Spalding

Description: Proposed replacement dwelling - re-submission of H16-1102-20

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 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 (amongst other matters):
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 to be at

risk of 2 metre plus depths. The Flood Risk Standing Advice Matrix states that proposals must have a minimum of 2 storeys with no ground floor habitable accommodation and that the first floor living accommodation must be above the highest predicted flood depth. 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.

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:
6209/PL01B
6209/PL02F
6209/PL03F
6209/PL04B
Design and Access Statement (prepared by Peter Humphrey Associates Ltd, dated 16th August 2021)
Flood Risk Assessment (prepared by Peter Humphrey Associates Ltd, dated 16th August 2021)
Details of External Materials



Phil Norman
Planning Manager

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

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		

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.