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TOWN AND COUNTRY PLANNING ACT 1990

OUTLINE

Reference: H16-0888-18 **Date of Decision:** 19th October 2018
Applicant: W D Branton & Willow Tree Potatoes Ltd
Willow Tree Farm
Deeping St Nicholas
Spalding
Lincs
PE11 3BN
Location: Land North-West Of Hexham South Drove Pode Hole Spalding
Description: Residential development - erection of 2 houses

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

- 1 When assessed against Paragraph 11 of the National Planning Policy Framework (2018) it is considered that the adverse impacts of approving the application would significantly and demonstrably outweigh the benefits.

Paragraph 11(d) states that, where the most important policies for determining the application are out-of-date as a result of the local planning authority not being able to demonstrate a five year supply of deliverable housing sites (in this case policies relating to housing supply), permission should be granted unless: (i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; (ii) or any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework as a whole.

(i) The site is not within a protected area or an asset of particular importance as defined by Paragraph 11 of the NPPF.

(ii) The development may support the local economy through employment opportunities associated with construction and future occupants may work locally and support local services. Furthermore, the proposal would make a contribution, albeit small, towards housing supply in the district (Section 5). However, the site does not relate particularly well to the existing settlement, being detached from the existing built-up area. It is over 4km from the town centre and is some 240m from the footpath network into Spalding, with the nearest bus stops being 450m away. Pedestrian access would potentially be hazardous due to the lack of footpath connection from the site as well as street lighting and the road being subject to the national speed limit. It is therefore considered that the proposal would be contrary to Paragraph 108 of the NPPF which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 110 which states that priority should be given to pedestrian movements and that the scope for conflict between pedestrians and vehicles should be minimised. Given the potential for pedestrian/vehicle conflict, it is reasonable to assume that future occupiers of the dwellings would be heavily reliant on the private car to access services and facilities which would be contrary to the provisions of the NPPF. The site is on the rural fringe of Spalding and existing development along this part of South Drove is highly scattered, with gaps between generally being in excess of 100 metres. There is denser development along the east of Spalding Common to the north of the junction with Luck's Bridge and then on both sides further north towards the main built-up area of Spalding. However, this site off South Drove Drain has a more rural character. It is acknowledged that a development of 2,250 dwellings will extend as far as the land on the opposite side of South Drove Drain, however there is no indication that development is to take place on this part of the site any time soon (construction has commenced at the northern end off Broadway). Furthermore, South Drove Drain acts as a strong line/boundary to the south-west of that proposed development and it is considered that development should not extend beyond this. The proposed development would intensify existing scattered development to the detriment of the existing character of the rural fringe. This would be contrary to Paragraph 127 of the NPPF which states that planning decisions should ensure that developments are sympathetic to local character, including landscape setting.

The proposal, if permitted, would encourage further applications of a similar nature, which would be hard to resist and would cumulatively harm the aims and objectives of both the Framework and emerging SELLP to ensure that new development is sustainable and protects the character and appearance of the area and countryside. For example, if this site were to be developed, it would set a precedent for similar development along South Drove which would generate a cumulative adverse impact.

The site is therefore not considered to be a suitable site for residential development.

- 2 The site is located within an area identified as "Danger for Most" in terms of flood hazard, with predicted flood depths of up to 1.0m, within the South East Lincolnshire Strategic Flood Risk Assessment (2017), which is used as a basis to apply the sequential test in terms of flood risk. The emerging South East Lincolnshire Local Plan has identified sequentially preferable sites in terms of flood risk that are capable of meeting the identified housing targets for individual settlements. However, given the Council's present lack of a 5-year housing land supply, it could be argued that it cannot currently be demonstrated that there are sufficient reasonably available sites for housing that are sequentially preferable in flood risk terms across the district. In such a circumstance, it is arguable that the exception test should be applied. However, it is considered that the

proposal fails the exceptions test because the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal therefore conflicts with advice within paragraphs 158-161 of the National Planning Policy Framework (2018).

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:

Dwg. No. 1807-01; and

Flood Risk Assessment (prepared by S M Hemmings, dated 2nd September 2018).



Phil Norman
Planning and Building Control Manager
South Holland District Council

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		

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.

All appeals must be made using an Appeal Form which you can get from The Planning Inspectorate at Temple Quay House, 2 The Square, Bristol, BS1 6PN (tel: 0303 444 5000) or you can submit your appeal online at:

<http://www.planningportal.gov.uk/planning/appeals/online/makeanappeal>

The Secretary of State can allow a longer period for giving notice of an appeal but he 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 him that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the

provisions of the development order and to any directions given under the order. In practice the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

For detailed information on appeals, appeal types and guidance on the appeals process please visit:

<http://www.planningportal.gov.uk/planning/appeals/planningappeals>

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.