DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H17-0910-24** | **Applicant:** | **Mr D Vernall** |
| **Proposal:** | Proposed Vehicular Access Improvements | | |
| **Location:** | 1 Newlands Road Surfleet Spalding | | |
| **Terminal Date:** | 7th March 2025 | | |

**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 |
| 33 | Delivering a More Sustainable Transport Network |
| 36 | Vehicle and Cycle Parking |

**National Guidance**

**National Planning Policy Framework December 2024**

Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed 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 |
|---|---|---|---|---|
| PARISH COUNCIL | 0 | 0 | 0 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 0 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |

## CASE OFFICER ASSESSMENT

### Description of Proposal

This is a full planning application seeking permission to repair and improvement the vehicular crossing at 1 Newlands Road, Surfleet. It is proposed that asphalt would be used for the repairs, in keeping with the materials currently in situ. A drainage channel would ensure the flow of surface water to a soakaway in the front garden of 1 Newlands Road.

### Site Description

The site is located outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, sitting approximately 400m north of Surfleet. The dwelling is a semi-detached house, lying at the end of a row of six pairs of comparable properties. To the north, east and south are agricultural fields. The land which this application relates to appears to be outside of the residential curtilage of the dwelling.

### Relevant History

H17-0619-24 - S192. Proposed vehicle crossing. Refused 30/09/24.

H17-0553-17- Full. Erection of an outbuilding for use as music teaching space, music recording studio and family recreational area (resubmission of H17-0319-17) Approved 18-07-17

H17-0319-17- Full. Erection of outbuilding for use as music teaching space and family recreational area. Approved 17-05-17

H17-0269-14- Full. Extension to dwelling comprising two first floor bedrooms, ground floor living room, bedroom and shower room. Approved 29-05-14

### Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Highway and Lead Local Flood Authority

"Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application"

Recommends the imposition of two informative conditions.

Welland and Deepings Internal Drainage Board

"The Board's Latham Lode Seas End pipeline lies underneath the application location. To avoid any potential clashes with the Board's asset, I request that the applicant makes contact with myself to arrange a site meeting to discuss the proposals in more depth".

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

### Key Planning Considerations

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which 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 need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy 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 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.

The site is outside of any of the defined settlement boundaries within the SELLP, and therefore, is considered to be within the countryside from a planning perspective. That being said, as the works are for the repair of a vehicular crossing, the site location is considered necessary.

As such, the proposal is considered to be in accordance with the requirements of the SELLP when viewed in principle. This is subject to the assessment against site specific criteria; including (but not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and impact on highway safety, which are discussed in turn in the following sections.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states 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 NPPF, 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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.

Due to the low lying nature of the proposal, there would be no significant visual impacts arising from the development. The materials are in keeping with what currently is in place, and are therefore acceptable.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The development would have no significant impact upon residential amenity.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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, following mitigation, would be severe, taking into account all reasonable future scenarios".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

The proposal would repair an existing crossing which is in a state of disrepair. As such, the proposal can be considered a betterment in respect of highway safety.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, and 33 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "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". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states that "the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

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. The process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall"

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. 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 SELLP 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 SFRA as a basis to apply the sequential test.

Within the SFRA the site is classed as "danger for most", with a hazard depth of up to 1 metre.

Applying the sequential test, as the proposal relates to the improvement of an existing road, it is not possible for the development to be located in area with lower flood risk. Therefore, the exception test should be applied.

Turning to the provisions of the exceptions test, it is considered that the proposal would satisfy both elements of the test. The proposal would provide small but tangible benefits to the community, through improvement of highway safety and enabling easier movement of peoples. The proposal would also, as discussed below, see environmental improvement via improved drainage. Furthermore, due to the nature of the proposal, it would be safe for its lifetime and would have no tangible impact upon flood risk elsewhere.

In addition to the above flood risk concerns, Policy 4 also concerns site drainage. It is proposed that a channel drain would be dug to carry surface water to a soakaway located in the front garden of 1 Newlands Road. This is considered an appropriate strategy given the constraints of the site.

The comments of the IDB have been noted; however, it is not considered that there is a conflict between the Board's assets and the granting of permission in this instance. In any event, the IDB have sufficient powers to regulate their own assets without the need for the intervention of the Planning Authority.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:
(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan, or
(c) the development is exempt from the biodiversity gain condition.

The proposal is considered to be exempt from the standard Biodiversity Net Gain condition under Section 4 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024, as it would impact less than 25sqm of habitat and less than 5 metres of linear habitat.

Other Matters

The applicant has submitted Certificate D alongside this application. This Certificate is applicable where an applicant is unsure of who owns the land. In line with proper procedure for this Certificate, and advertisement has been placed in a local newspaper 21 days before the start of this application. In this time, no one has come forward to declare ownership of the land. It is considered that the proper procedure has been followed and the application can proceed.

## 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.

development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate drainage provisions, whilst conforming with the SELLP and the provisions of the NPPF when viewed as a whole.

## 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 these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, and 33 of the SELLP, as well as Sections 9, 12, 14 and 15 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

## Recommendation

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