

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H18-0199-23 **Applicant:** Mr J Hook
Proposal: Residential Development - 1 Dwelling
Location: Land Off New Road Sutton Bridge Spalding
Terminal Date: 1st May 2023

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
28 The Natural Environment
30 Pollution
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
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	1
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
SHDC INTERNAL	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the erection of a detached five-bedroom dwelling on land off New Road, Sutton Bridge.

Site Description

The application site lies on the eastern side of New Road and is sited on the corner of Golf Court. The land is presently grassed with a few shrubs and trees with a boundary fence to the south of the site. The site is adjacent to defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design.

History

H18-0269-15 - Full - Erection of 2 detached dwellings - Approved June 2015
H18-0145-16 - Outline - Residential development - four dwellings - Approved April 2016
H18-1111-16 - Outline - Residential development - Erection of four dwellings - Approved June 2015
H18-1195-18 - Reserved Matters - Erection of dwelling - Plot 1. Outline approval H18-1111-16 - Approved March 2019

Consultation Responses

Sutton Bridge Parish Council

The Parish Council believes that this is an overdevelopment of the site with an inadequate provision for on-site parking.

Environment Agency

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition

The development shall be carried out in accordance with the submitted flood risk assessment prepared by Ellingham Consulting Ltd, ref: ECL0962/G R MERCHANT, dated February 2023 and the following mitigation measures it details:

- Finished floor levels to be set no lower than 1 metre above existing ground level
- Flood resilient construction to a height of 300mm above the finished floor level

These mitigation measures shall be fully implemented prior to occupation and subsequently in

accordance with the scheme's timing/phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason

To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy 4 of the South East Lincolnshire Local Plan 2011-2036.

South Holland Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary, however this should be confirmed by the applicant. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Environmental Protection

No comments

LCC Highways/SUDS

No objection.

The proposed dwelling will occupy what appears to be a building plot that has been set aside for such use and which already enjoys a shared vehicle access crossing with the existing dwelling on the adjacent land. The proposed dwelling has adequate space within its curtilage for parking and vehicle manoeuvring. This is a residential street within Sutton Bridge and another residential dwelling would not therefore be expected to have an unacceptable impact upon highway safety. Accordingly, the highway authority does not wish to object to the grant of consent for this Application.

Residents

Resident objections received (summarised):

- Objecting because I have had enough of the continual noise
- Trees have been ripped out
- There has been more than enough building

Planning Considerations

Principle

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Housing Policy/Sustainability

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise. The relevant development plan in this case is the South East Lincolnshire Local Plan (SELLP), which was adopted in March 2019. The Council has a housing land supply exceeding five years (5.9 years on 31 March 2022).

The application site is outside of the settlement boundaries of Sutton Bridge. The principle consideration in this instance relates to the principal of development in the countryside outside of a settlement boundary. In such locations, permissible residential development is generally limited to those necessary to such a location (i.e. agricultural), the provision of replacement dwellings, dwellings converted from redundant rural buildings or affordable homes on 'Rural Exception Sites'.

Policy 1 (Spatial Strategy) of the SELLP indicates that development in the countryside will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

Addressing the first element, it has not been demonstrated that residential development is necessary in this particular location; for example, in conjunction with agriculture, another rural based business or affordable housing. It is noted that outline planning permission was granted in 2016 for four dwellings and the other three dwellings have been built. However, it was granted during a time when South Holland District Council did not have a five year land supply.

An Economic Role - Future occupants may work locally and support local services, thereby making a contribution to the local economy. There may also be employment opportunities associated with the construction, albeit in the short term.

A Social Role - The proposal would make a contribution, albeit small, towards housing supply in the District. The site is accessible to local services and facilities within the town, which include shops, primary school, veterinary clinic, and a golf club. It is considered by the existing Local Plan to be capable of supporting some new growth for this reason. Development has recently been permitted on a site adjacent to the application site, which was considered sustainable on locational grounds however, this was during a time when South Holland District Council did not have a five year land supply. Taking this into account it would be difficult to refuse the application on this basis.

An Environmental Role - The environmental objective identifies the need to protect and enhance our natural, built, and historic environment. It has not been demonstrated that the development is necessary in this location and how it would protect/enhance the existing character of the area.

Although dwellings have been built to the north and east of the application site, it is still clear that the site is outside of the built form of Sutton Bridge and outside of the settlement boundary. This is because to the north of the application site development becomes scattered and informal.

Consequently, it is considered that the proposed development would not provide a sustainable location for new housing on environmental grounds.

The proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in accordance with advice within the National Planning Policy Framework, 2021. Paragraph 130 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 seeks to protect the character of the countryside.

Residential Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021).

It is not considered that the proposed development will have a material adverse impact on residential amenity in terms of being overbearing, or creating an overlooking or loss of light impact.

The proposed east elevation include velux windows to the second floor on roof slopes that face the neighbouring dwelling to the rear. However these are reasonably high above the floor level. The rear windows have a separation distance of more than 13m from the neighbouring side elevation. This is sufficient to prevent a material overlooking impact.

In light of the above, the proposal is considered to accord with Policies 2 and 3 of the Local Plan in respect of their provisions on residential amenity.

Parking/Highway Safety

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. In conjunction with Policy 36 of SELLP 2019, Appendix 6 sets out the minimum standards for parking provision based upon the use class. Two spaces for dwellings with up to 3 bedrooms and 3 spaces for dwellings with 4+ bedrooms should be provided within the curtilage.

The application is for a five bed dwelling and for this proposal there is enough space for three cars in front of the dwelling.

The Local Highway Authority has not raised any objections to the scheme.

The proposal therefore satisfactorily complies with Policies 2, 3 and 36 of the SELLP in this respect.

Flood Risk

The site is within Flood Zone 3 of the Environment Agency's Flood Maps. They 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. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

Whilst the submitted Flood Risk Assessment provides mitigation, including the provision for finished floor levels to be sited at 4.50m AOD, which is 1 metre above ground level, the Flood Risk Assessment fails to appropriately apply the sequential test.

As stated, the application site lies within Flood Zone 3 of the Environment Agency flood maps, which is land identified as having high probability of flooding. Furthermore, the South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is located within an area identified as a "Danger for Most". 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: a) applying the sequential test and then, if necessary, the exception test as set out below". Para 162 details that "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", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

Policy 4 of the South East Lincolnshire Local Plan 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, where:

1. It can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed). The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location. The sequential test is not required for sites allocated in the Local Plan, minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site)", with 'minor development' in this instance taking the definition outlined within the NPPF and National Planning Practice Guidance in relation to flood matters.

In this instance, the sequential test aspect within the Flood Risk Assessment identifies that the site is within a location that is at an 'actual risk' of flooding that is low. Further explaining that "large parts of the South Holland district that are near the River Nene lie within Flood Zone 3. As such, the opportunities to undertake the development at an alternative site with a lower flood risk are limited".

However, the assessment does not provide any demonstration that alternative sites have been reviewed or assessed, failing to identify that more appropriate or suitable alternative sites are not available. This has not been demonstrated within a district-wide search, or within a more limited search, with no clarification being provided in regard to a need for the search area to be limited for the purposes of the sequential approach as outlined as a requirement within point.1 of Policy 4, which details that:

"The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location".

Therefore, notwithstanding mitigation that has been identified and notwithstanding the comments raised by the Environment Agency, the sequential test submitted fails to demonstrate an assessment of alternative sites and therefore fails to appropriately consider alternative sites that may be of lesser risk of flooding. It is considered that it is likely to be possible for the development of a single dwellinghouse to be delivered on sites that are in locations that are more environmentally sustainable and of lower flood risk. The proposal therefore fails to satisfy the sequential test and is contrary to Policy 4 of the South East Lincolnshire Local Plan and section 14 of the National Planning Policy Framework.

It is considered that the proposal would not provide wider sustainability benefits to the community or provide an alternative benefit that would otherwise outweigh this.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is outside Sutton Bridge settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), March 2019. It is therefore within an area regarded as countryside.

SELLP Policy 1 indicates that development in the countryside will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

It has not been demonstrated that a dwelling is necessary in this particular location; for example, in conjunction with an agricultural or other rural based business.

Furthermore, the proposal fails to demonstrate that alternative sites, with lower flood risk, are not available and therefore fails to demonstrate that this site, within Flood Zone 3, should be developed. The proposal therefore fails to accord with the provisions of Section 14 of the NPPF, or comply with Policy 4 of the the South East Lincolnshire Local Plan, 2019.

The site is not therefore considered to be a suitable site for housing with particular regards to the principles of sustainable development, the protection of the rural character of the countryside and in respect to an appropriate approach to flood risk. The proposal is not in accordance with Policies 1, 2 or 4 of the South East Lincolnshire Local Plan, 2019, or sections 5, 14 and 15 of the National

Planning Policy Framework.

Summing up, therefore, the adverse impacts of granting permission would demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and National Planning Policy Framework taken as a whole. No additional information justifying the need for a dwelling in this location has been submitted that would otherwise outweigh these considerations.

Conclusion

For the above reasons it is recommended that the application be refused under delegated powers.

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.