DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0898-22**	**Applicant:**	**Mr J Hallifax**
Proposal:	Dwelling in association with adjoining coal yard and depot - approved under H18-0295-88. Modification of Condition 3 to allow occupation of the dwelling by persons not employed at adjoining coal yard which has ceased trading.		
Location:	Herons Path East Bank Sutton Bridge		
Terminal Date:	29th November 2022		

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
23	The Reuse of Buildings in the Countryside for Residential Use
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 11 - Making the Best Use of Land

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to the removal of a condition restricting the occupation of the bungalow to owners or employees associated with the adjoining coke and coal depot. The adjoining business has ceased trading and the current owner is employed nearby. The property has been in situ since 1988.

Site Description

The bungalow which is the subject of this application is already in existence and is constructed in yellow bricks with a tiled roof. It is surrounded by a garden laid mainly to lawn and shrubs and trees around the perimeter. There are various domestic structures within the garden including a greenhouse, and sheds so it is clear that residential use is lawful. The site has a thick conifer hedge enclosing it from the adjacent access point which leads to several industrial/agricultural sheds which use this access opposite, and to the rear. Within the same ownership is a disused coal yard which has various sheds on it and coal apparatus. Trading of coal no longer takes place at the premises.

History

H18-0898-22 - Outline Granted 12 May 1988. Condition 3 of this permission was as follows:

"The occupation of the dwelling hereby permitted is hereby limited to the owner of the adjoining coal and coke dept granted planning permission under H18/0301/88 or to an employee of that person working in the said coal and coke depot.

Reason: In the opinion of the Local Planning Authority the proximity of the coal and coke yard makes the dwelling hereby permitted unsuitable for occupation unconnected with that use."

Consultation Responses

Parish Council

Sutton Bridge Parish Council support the application to ensure the use of available residential properties of the Parish.

Other Responses

No other responses received.

Planning Considerations

Principle and Sustainability

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

Policy 1 of the South East Lincolnshire Local Plan 2019 (SELLP) relates to the overall settlement hierarchy of the district and encourages development in more sustainable locations. Whilst this property is not within a defined settlement boundary, it is already in existence and has been there since the late 1980s. As a result, the locational policy for Policy 1 cannot be applied in this case as the existence of the bungalow pre-dates the Local Plan.

Size, Scale, Layout and Design

Policy 2 of the SELLP states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to, amongst other things, size, scale, layout, density, impact on amenity, character and appearance of the area and the relationship and impact on existing development and neighbouring land uses, the quality of design, access and vehicle generation level and visual intrusion.

The bungalow is already in existence and was constructed in 1988 in connection with an adjacent yard which was a coal distribution business. Coal was delivered to the yard in large lorries, the coal was bagged and ready for distribution to households and businesses. The coal business has now

ceased. There is nothing about the residential property that means its size, scale, layout or design is in conflict with Policy 2 of the SELLP.

Design and Landscape Character

Policy 3 of the SELLP requires all development to create distinctive places and states "design which is inappropriate to the local area, or fails to maximise opportunities for improving the character and quality of an area, will not be acceptable." Policy 3 also stresses the need to avoid visual closure.

The residential curtilage is clearly defined and distinct from the adjacent coal yard. The surrounding area is not of high quality and in comparison the residential premises is an improvement in a design sense.

The design of the bungalow itself is acceptable and is not located in a visually attractive location. There is no conflict with Policy 3 of the SELLP.

Flooding Considerations

Policy 4 of the SELLP relates to the approach to flood risk and details how development proposals will be determined, including sequential testing and other relevant considerations.

The property is in Flood Zone 3 which has the highest probability of flooding. However, the property has been in existence for many years and site photos confirm that the floor level is above 300mm meaning that flood impacts will be mitigated.

It is not considered that the proposal significantly conflicts with Policy 4 due to the fact that the bungalow is in situ.

Impact on Biodiversity

Section 15 of the National Planning Policy Framework (NPPF) seeks to protect biodiversity, safeguarding components of local wildlife-rich habitats and wider ecological networks, wildlife corridors and stepping stones that connect them. Paragraph 80 states that if significant harm to biodiversity resulting from a development cannot be avoided, adequately mitigated or compensated for, then planning permission should be refused.

Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and assess proposals directly or indirectly affecting these assets by assessing if the benefits of the proposal would outweigh the adverse impacts on the site and wider network of natural habitats.

The immediate locality of the site is not biodiversity friendly, but it is considered that the garden associated with the house will provide a stepping stone for birds and therefore make a contribution to biodiversity. It is not considered to conflict significantly with Policy 28 of the SELLP.

Foul and Surface Water Drainage

Whilst not confirmed on the application forms, it is reasonable to assume that foul sewage would be discharged as per the historical use of the site, and there would be no change to surface water details. It is considered that these details are satisfactory.

Conclusion

Section 38 (c) 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. To determine whether the proposal accords with the Local Plan it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

In economic terms, the owner of the bungalow works behind the application site therefore make a contribution to the local economy which weighs in favour of the proposal.

In community terms, the proposal makes a contribution towards housing supply in the district. This weighs in favour of the proposal.

In environmental terms, the proposal has a mature garden with trees and shrubs which makes a contribution in biodiversity terms. The owner also walks to work from this property. These factors weigh in favour of the proposal.

Overall, there is no identified harm in removing the condition to prevent the current owner living at the property in the planning balance.

Conclusion

Approve the application.

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.