

**DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H18-1076-24                      **Applicant:** S E King Building Contractors Ltd

**Proposal:** Demolition of existing barn & erection of one dwelling

**Location:** Maze Farm Hospital Drove Long Sutton

**Terminal Date:** 30th May 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

28                      The Natural Environment

30                      Pollution

36                      Vehicle and Cycle Parking

APPENDIX 6                      Parking Standards

**National Guidance**

**National Planning Policy Framework December 2024**

Section 2 - Achieving sustainable development

Section 4 - Decision-Making

Section 5 - Delivering a sufficient supply of homes

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
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS	0	0	0	1

SUPPORT				
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application for the demolition of existing barn & erection of one dwelling. The proposed dwelling is built across two floors, has 4 number bedrooms at first and a ground floor there is an integrated garage with car port.

The proposed dwelling is accessed from Hospital Drove with driving and turning area to the south of the carport. To the rear of the proposed dwelling steps lead up to the property southern elevation. A large garden is also proposed with extensive landscaping.

This application confirms that the proposal is for a self-build dwelling and so BNG exempt.

### **Site Description**

The application site is a barn located to the east of a small cluster of residential dwellings and agricultural related buildings. It is accessed from Hospital Drove and located away from Long Sutton, to the North East. The application site is located within the open countryside and outside of any defined settlement boundary. The site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the South East Lincolnshire SFRA indicates that the site is within an area designated as danger for all.

The application site is accessed from the end of Hospital Drove and is surrounded by farmland. The existing barn is made up of sectional concrete boards at ground, to half way up and a corrugated sheeting on the upper half of the elevations and roof. A timber framed door allows for access on the north elevation. On site visit the building had ivy growing, heavily at certain points on the building. To the West of the site is a small farm with a liner development of dwellings.

The barn benefits from prior approval to be converted into a dwelling, approved under H18-1072-23.

### **History**

H18-1072-23 - Proposed change of use of agricultural building to dwelling (previously refused under H18-0896-23). Approved 11th January 2024

H18-0896-23 - Change of use of agricultural building to dwelling. Refused 27-11-23

### **Consultation Responses**

South Holland IDB

### *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.

### *Foul treated water*

I note that the applicant intends to treat foul waste using a package treatment plant, however, I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3

### Environment Agency

This proposal comes under cell D8 of the local flood risk standing advice and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. It was therefore not necessary to consult us; please consider the proposals against the guidance of the standing advice.

### Highways & SuDs Support

No objections, the proposal is for the demolition of existing barn & erection of one dwelling. The parking demonstrated is acceptable for the size of dwelling proposed. The dwelling will be accessed from the end of the public highway. The proposal will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications.

This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

### National Gas Transmission

National Gas Transmission does not object to the proposed works.

### Historic Environment Officer

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

### Environmental Protection

Request a screening assessment form to be completed and submitted with photographs of the site and building. This screening assessment form is available at <https://www.sholland.gov.uk/article/11653/Planning-application-consultations>

### **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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

The following issues are relevant to this assessment:

- Principle of Development
- Character & Landscape
- Flood Risk and Drainage
- Amenity
- Highways Safety
- BNG/Ecology
- Planning Balance

## Principle of Development

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire until 2036. Policy 1 (Spatial Strategy) expresses the sustainable framework 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 in respect of sustainable development 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 application site is located within the open countryside in accordance with Proposal Maps contained within the South East Lincolnshire Local Plan 2011 - 20236. Policy 1 'D' (Spatial Strategy) of the Southeast Lincolnshire Local Plan is concerned with development within the open countryside, it states:

*The rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside. In the Countryside development 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 benefit.*

The application site is located within the open countryside and as confirmed there are sufficient deliverable housing sites in South Holland District, beyond the 5 year requirement.

The proposal therefore which is for the erection of a single market dwelling is considered unacceptable in principle being contrary to policy 1 of the South East Lincolnshire Local Plan.

### Betterment & weight attributed to fall back

Further to the above assessment of the principle of development, a significant consideration for this proposal relates to the 'Class Q fallback'.

Specifically relating to 'Class Q development and its subsequent fallback', the Court of Appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' provides a significant benchmark and consideration.

Mansell vs Tonbridge and Malling Borough Council (2017) established that where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan, insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the Local Authority. Where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could (and perhaps should) be allowed to proceed. In this case, the existing building on the site has a Class Q consent for change of use to form a dwelling. It is considered that the granting of the Class Q demonstrates the applicant has a "real prospect" and clear desire to develop and maximise the value of the site.

It is therefore considered that the general principle of residential development is already established across much of the site, having granted prior approval under H18-1072-23 to convert the barn into a dwelling. The extension to the red line boundary that was previously allowed is shown to be taken up by amenity space and landscaping, an assessment upon whether this proposal would offer an enhancement to the setting will be made. However, in principle terms the fall back is sufficiently material to warrant a departure from SELLP Policy 1. The case for betterment is discussed within the remainder of this report.

### Character & Landscape

Policy 2 of the SELLP states 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. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states 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"

NPPF Paragraph 187b is relevant, it states that *Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*

One of the considerations for betterment is that the new proposal would enhance the setting of the area. The application site which is located at the end of Hospital Drove, is detached from the ribbon of residential form nearby. It is read in the context of a countryside setting, and against the agricultural back drop of the wider farmed area and agricultural buildings, that have historically be located in this area..

Notwithstanding that the prior approval put forward a conversion that contained modern materials, with gallery openings and built across two floors. (Materials were made up of roof - Zinc standing seam, windows & doors - Grey aluminium, rainwater goods - black metal). That permission also still retained the form, siting and general appearance of this agricultural barn, one that has informed the open countryside in this area for sometime, and is appropriate for the rural and countryside setting in which it is located. The approved red line boundary also offered limited space for planting, but the distinction between agricultural uses and nearby residential uses were reinforced through granting a curtilage area of this size and separation distances (between the hamlet and countryside) therefore

retained.

The applicant states that there is a reduced footprint at ground floor. However the building, in terms of scale (when considering the garage and car port) is not commensurate with the existing barn, neither in scale or appearance. This proposal also orientates the dwelling so the property engages with the proposed extended curtilage to the south. The result is that the scheme is not based upon any contextually related design traits that are inherent in the existing barn (or approved conversion), furthermore there is no reference, nor compatibility with the types of dwellings that are already located along Hospital Drove. Moreover, the design and access statement fails to justify the design rationale in terms of its appropriateness to this location.

This proposal not only extends the red line boundary considerably, diminishing the space between the existing residential dwellings along Hospital Drove and the wider agricultural uses in the area, but also proposes a suburban style dwelling in place of the converted barn, which is considered to be completely out of character with this rural setting and would introduce a visually incongruous final form of development which fails to respect or reinforce the character of the area. The proposed dwelling through its siting, orientation, footprint and form is considered then to have an urbanising effect upon this part of the countryside, rather than one that should be based upon the context its locational vernacular (which is open countryside), which is considered to result in visual harm to the character and appearance of the area, being completely at odds with its surroundings.

Notwithstanding that materials can be controlled through condition, the siting, form and general appearance/design of this proposed dwelling would fail to recognise the intrinsic beauty of this part of the open countryside, representing an incongruous feature, that does not contextually relate to its immediate or wider setting. The proposed design is of limited architectural merit, which bears no resemblance to the agricultural and rural context of the site, nor does this appear to have been considered in the modern and suburban design philosophy that is proposed. As such, the design of the replacement dwelling is considered to be unacceptable and visually at odds with the locality and would adversely harm the character of the area. Furthermore, the applicant has failed to demonstrate a clear or overriding justification as to why such a design would or should be considered acceptable in this location.

On this basis then the proposal is not considered to represent betterment, over what has already been approved on this site, which was a more sympathetic and appropriate design for the dwelling in this rural and open countryside location and setting. As such, the proposal is considered to be contrary to the aims of SELLP Policies 2 and 3 as well as NPPF Paragraph 187b.

### Flood Risk & Drainage

Policy 4 sets out South Hollands approach to Flood Risk. The application site is located within flood zone 3 in accordance with the Environment Agency Mapping systems. A review of the hazard mapping and depth mapping that are derived from the SFRA show that the application site is located within an area that has a mix of 'Danger for most' & 'Danger for all' (with depth between 1.25 and 2.0).

In such locations SELLP Policy 4 states that development will be permitted subject, where:

*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)*

However, in this instance as the justification of the submission is based upon the fall back of a class Q on this site, it is not appropriate to apply the sequential test, and this is passed. It is pertinent to reapply The Exception Test given that there is a change in the merits of the proposal. The test requires two additional elements to be satisfied (as set out in paragraph 178 of the National Planning Policy Framework) before allowing development to be allocated or permitted in situations where suitable sites at lower risk of flooding are not available following application of the sequential test.

It should be demonstrated that:

·development that has to be in a flood risk area will provide wider sustainability benefits to the community that outweigh flood risk; and

·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 applicant has approached the exceptions test within the FRA, stating that *The Local Plan has a target of a net increase of at least 11,681 dwellings in South Holland over the 25-year local plan period. The Plan considers this new housing is required to ensure the sustainability of the Local Plan area. The proposed development will contribute to this target and the provision of rural housing is a benefit.*

The prior approval was considered to have wider sustainability benefits to the community as it survived a well established barn, that was no longer fit for modern agriculture. Appropriate weight was then afforded and it was considered that the wider benefits outweighed the risk from flooding. This proposal puts forward a design that is harmful to the character of the open countryside, a public benefit. Given this scenario it is considered that the suitability benefits to the wider community do not outweigh the risk from flooding, and so, the first part of the sequential test is failed.

In terms of being safe for its lifetime the applicant proposes that the finished floor level is set at 11.0m Site Datum, 0.96m above the lowest surrounding ground level, and there is 0.3m of flood resilient construction above finished floor level. The EA have no objections and this scenario was previously approved on the barn conversion.

### *Drainage*

Whilst the surface water drainage is not clear at this stage (due to the lack of information on ground conditions) this was conditioned as part of the prior approval and so could be again as part of this permission. In terms of foul treatment, the applicant proposes a package treatment plant, however again further information in relation to where this drain is required. Therefore both elements of the drainage would need to be condition.

On this basis it is considered that the wider substantiality benefits to the community brought about by the proposal would not outweigh the risk from flooding. The proposal is therefore contrary to the aims of SELLP Policy 4 as well as NPPF Paragraph 178a.

### Amenity

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The proposal would retain a sufficient separation distance not to give rise to unacceptable issues in relation to residential amenity impact such as overbearing and overshadowing. Furthermore all openings are located within appropriate positions and would not give rise to unacceptable impacts in relation to overlooking. This matter weighs neutrally in the planning balance as the lack of harm being caused to neighbouring amenity is a prerequisite of all development proposals, and should not be afforded weight as a benefit of the scheme in the planning balance.

On this basis it is considered that the proposal would meet with SELLP Policies 2 and 30.

### Highway Safety

SELLP 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.

SELLP 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.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The applicant shows an access/egress to the west of the application site, this was previously approved by under the class Q application. Furthermore, sufficient parking and turning are shown within the site, vehicles can enter and leave in a forward gear. Highways have confirmed they have no objections.

On this basis then the proposal would accord with SELLP Policies 2, 3 & 36. However, again it is noted that the lack of highway harm is a prerequisite of all development proposals, and should not be afforded weight as a benefit of the scheme in the planning balance. As such, this matter also weighs neutrally in the planning balance.

### **BNG & Ecology**

SELLP Policy 28 is concerned with the Natural Environment points 2 and 3 are relevant to this assessment, point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

The applicant has not provided a preliminary ecological appraisal however conversion of the barn on site is already allowed without any such information/conditionality.

In terms of BNG the applicant states that the site is exempt through the self build/custom build exemption. The LPA are in agreement with this position. This would be secured through unilateral undertaking.

On this basis the proposal would accord with SELLP Policy 28.

### **Land Contamination**

SELLP Policy 30, it states *Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon land quality and condition*

Environmental Protection have been consulted and have requested screening information. However, this information has not be reviewed. Also, the extant permission is subject to a full suite of land contamination conditions. Given the agricultural history associated with this site, this condition would be applied to any permission.

Given the mitigation the proposal is considered to accord with SELLP Policy 30 as regards land contamination.

### **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.

The proposal whilst contrary to the aims of SELLP 1 the applicant has a fall back in that the barn can be converted into a dwelling, under class Q, which has already been approved and is extant. On this basis the appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' is engaged. In such instances where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could (and perhaps should) be allowed to proceed. However, this fall-back position does not represent a fait accompli that any subsequent design or scheme should automatically be accepted.

In the case of the current application, following assessment of this proposal against its character merits, it is considered that the development, if allowed would have a harmful effect upon the local environment and wider open countryside. The proposal by virtue of its scale, form, orientation and appearance and poor design is not commensurate with its immediate or broader setting and so would represent an incongruous feature, that appears to be devoid of any context. This proposal would therefore not offer an enhancement over what has previously been approved and would not represent betterment or enhancement of the area. Instead the design now proposed would represent a visually incongruous final development which would be starkly at odds with the rural setting and context of the application site, by introducing a suburban dwelling of limited architectural merit.

Given the level of character harm it is considered that the wider sustainability benefits to the community relating to this proposal would not outweigh the risk from flooding and on this basis the proposal would fail to pass part A of the exceptions test.

In this instance then, it is considered that the harm brought about by the development would not outweigh the benefits, given the fall-back for the site already enables the development of a single dwelling, which would be achieved through a more appropriate and sensitive conversion of this rural barn which is in-keeping with and preserves the character of the area and surrounding countryside. As such, the planning balance is not support of the development. The proposal is unacceptable and recommended for refusal.

## **Conclusion**

Taking into consideration these factors, the proposal is considered to be contrary to Policies 2, 3, and 4 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis the proposal is recommended for refusal.

## **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.