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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H20-0732-21 **Date of Decision:** 1st September 2021

Applicant: Mr & Mrs M Peace
C/O Studio 11 Architecture
Kings Lynn Innovation Centre
Innovation Drive
Kings Lynn
PE30 5BY

Location: Land Off Draw Dyke Sutton St James Spalding

Description: Proposed Zero-Carbon Self-Build Dwelling

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

1 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 a 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.

Addressing the first element, it has not been demonstrated that a dwelling is necessary in this particular location; for example, in conjunction with agricultural or other rural based business. Although a personal case has been put forward and the site is the applicants' own the land this should be given limited weight and is not considered to be sufficient justification.

Concerning the second element, it is recognised that the development would have a "zero carbon" footprint and that it may also bring small economic benefits to the area. However, these factors are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such as the site's unsatisfactory relationship to local services and facilities, reliance upon the motor car and the development's effect upon the character and appearance of the countryside.

The site is located within the countryside and is currently grassed and undeveloped. It has a distinctly rural feel which contributes to the character of the countryside. The proposal would introduce a substantial amount of build mass to the site, thereby eroding the sense of openness. The proposal, if permitted, would consolidate existing development and would also domesticate and materially change the present rural character of the site.

The site is not therefore considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is not in accordance 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. Paragraphs 112 and 130 indicate that new development should respond to and be sympathetic to local character, whilst paragraph 174 seeks to protect the intrinsic character of the countryside. Paragraph 105 indicates that development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offer a genuine choice of transport modes.

Paragraph 80 of the Framework exceptionally makes provision for isolated homes in the countryside where they are of exceptional design and the proposal would significantly enhance its immediate setting and be sensitive to the defining characteristics of the local area. However, the design of the dwelling is not considered to be truly outstanding. Moreover, the proposal would harm the character of the immediate area for the reasons identified above.

With regards to self-build housing, the supporting text for Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan sets out that there will be numerous opportunities for self-build and custom-build development within the defined settlement boundaries. In this case the site is in the countryside and not within a defined settlement limit.

Within the context of the Council's duties under the Self Build and Custom Housebuilding Act, 2015, the provision of a single self-build dwelling would be a modest contribution to the demand identified on the Council's register, and carries commensurate weight in favour of the proposal. Whilst the Authority has had regard to the personal and community benefits arising from the provision of self-build housing and the Council's duties in that regard, these matters are not of such weight as to outweigh the identified environmental harm and the conflict with development plan policies.

In conclusion, therefore, the adverse impacts of granting permission would demonstrably outweigh the benefits, when assessed against the policies in the Development Plan and

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National Planning Policy Framework taken as a whole.

2 The site is located within an area identified as "Danger for Some" 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. There are alternative sites appropriate for the proposed development that are more sustainable and are located in areas with a lower risk of flooding. Moreover, the proposal fails the exceptions test because the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to Policies 2 and 4 of the South East Lincolnshire Local Plan, 2019 and advice within paragraphs 161-163 of the National Planning Policy Framework, 2021.

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 reasons 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:
519.TS.01;
519.PL.01;
519.PL.02;
519.PL.03;
519.PL.04;
519.PL.05;
519.PL.06;
View Looking East along Draw Dyke;
View Looking East of Link Courtyard;
View into Courtyard from the South;
View Looking East Along Draw Dyke;
View of Proposed Site & Ponderosa Opposite;
View of Proposed Site Looking East;
View Looking West Along Draw Dyke;
View Looking West along Draw Dyke with Site Entrance Opposite Ponderosa;
View of Site Entrance;
View from Above of Proposals;
View within Courtyard;
Flood Risk Assessment by S M Hemmings dated 29 June 2021.



Phil Norman
Planning 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		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

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.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but 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 the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

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.