

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 09 November 2022

(Author: David Gedney - Senior Planning Officer)

Purpose: To consider Planning Application H20-0790-22

Application Number: H20-0790-22

Date Received: 09 August 2022

Application Type: FULL

Description: Proposed new power generation, zero carbon self-build experimental home - re-submission of H20-0732-21

Location: Land off Draw Dyke Sutton St James Spalding

Applicant: Mr M Peace

Agent: Studio 11 Architecture

Ward: The Saints

Ward Councillors: Cllr M D Seymour

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H20-0790-22>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The proposal raises issues that warrant consideration by Planning Committee.

2.0 PROPOSAL

2.1 Full planning permission is sought for a new power generation, zero carbon self-build experimental home with detached garage block.

2.2 The architectural concepts behind the design are outlined within the Design and Access and Planning Statements are summarised later in the report (see information from applicant). They state that the design of the building is based on the agricultural style of post second world war small agricultural holdings, which generally include steel framed barns and agricultural sheds. The proposed materials include red facing brickwork at the lower level, with grey pre-weathered zinc standing seam cladding at the upper level and roof. The scheme includes anthracite aluminium windows and doors.

2.3 The full sustainability credentials of the proposal are set out in the Design and Access and Planning Statements. Renewable energy/zero carbon measures and a sustainable drainage scheme are proposed as part of the application, including a ground mounted PV array. The DAS indicates that the purpose of the proposal is to create a 'real-life' research and development project which provides a working research platform combined with a modern family home. The experiment would analyse electrical generation (including exporting of electricity to the National Grid and its associated carbon savings), energy use within the family home, potential for storage of energy within the home and how building construction influences can affect both energy generation and use.

2.4 The 'experiment' would be the creation of a home designed to Zero-Carbon fabric standards

supplemented with electrical generation, storage and management technologies. Data from the home would be made available to the Institution of Engineering and Technology (IET) and other academic organisations. The knowledge and data would also inform the applicant directly in his work on National and International Committees which develop both international and British Standards.

- 2.5 The application is also accompanied by a draft S106 planning obligation which covenants that the new dwelling would:
- i) meet the definition of a self-build home within the Self build and Custom Housebuilding Act 2015 (as amended);
 - ii) meet the Zero Carbon definition (as outlined by the Zero Carbon Hub);
 - iii) be powered by electricity generated on site through renewable technologies, with any surplus sold back to the National Grid;
 - iv) be provided with an on-site electric vehicle charging point;
 - v) be provided with an electric vehicle.

3.0 SITE DESCRIPTION

- 3.1 The application site is located in the countryside and is some 1.3km to the east of the centre of Sutton St James village. It is a plot of land of approximately 0.58 hectares and is the eastern part of a larger field owned by the applicant. It is bounded by a tall, mature, mostly hawthorn hedge to the east. Draw Dyke (B1165) is located to the south and open arable fields to the north and west. Further to the west another tall hedge sits at the boundary of the applicant's land ownership.
- 3.2 A bungalow (Ponderosa) is located almost opposite. Other residential properties nearby include "The Oak Grove" approximately 200 metres to the south-east on the opposite side of Draw Dyke and "Birchwood" some 270 m to the west. Both are associated with agricultural/rural based businesses.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

01. Spatial Strategy
02. Development Management
03. Design of New Development
04. Approach to Flood Risk
11. Distribution of New Housing
17. Providing a Mix of Housing
19. Rural Exception Sites
28. The Natural Environment
30. Pollution
31. Climate Change and Renewable and Low Carbon Energy
32. Community, Health and Well-being
36. Vehicle and Cycle Parking
Appendix 6. Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2. Achieving sustainable development.
Section 3. Plan Making;
Section 4. Decision making.
Section 5. Delivering a sufficient supply of homes.
Section 8. Promoting healthy and safe communities.

Section 9. Promoting Sustainable transport;
Section 11. Making effective use of land.
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.

Planning Practice Guidance (PPG)

Relevant Legislation

The Self-build and Custom Housebuilding Act 2015

The Act (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

The Act also sets a 'duty to grant planning permission etc', specifically "...authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period."

To increase the number of planning permissions which are suitable for self-build and custom housebuilding, Councils are encouraged to work towards:

- developing policies in their Local Plan for self-build and custom housebuilding;
- using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;
- engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and
- working with custom build developers to maximise opportunities for self-build and custom housebuilding.

The Self-build and Custom Housebuilding Regulations 2016

5.0 RELEVANT PLANNING HISTORY

- 5.1 H20-0732-21 - Full - Proposed zero carbon self-build dwelling - Refused 1 September 2021.

6.0 REPRESENTATIONS

6.1 Sutton St James Parish Council

The development falls outside the village boundary in the local plan. Also, we have concerns regarding the precedent an approval could have for similar applications to pop up in the open countryside.

6.2 LCC Highways/SUDs

Does not wish to restrict the grant of permission, subject to highway informatives.

6.3 South Holland Internal Drainage Board

Note that the applicant intends to discharge surface water and treated foul water to a riparian watercourse along the northern boundary. The proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

6.4 Public

Objections/comments received (summarised):

- Outside a settlement boundary in countryside. Dwelling not necessary or beneficial in any way and could be built within settlement limit which would be more eco-friendly
- Purchase of new car not eco-friendly, especially if existing car in good condition
- Design not truly outstanding or exceptional
- Proposed eco-friendly measures not truly outstanding and could be added to most dwellings that have already been built
- Custom and self-build housebuilding is far from a need, it is a want. Building an oversized dwelling with a gym, games, room, study and snug, several bathrooms/wet rooms/toilets is not a need and as mentioned before it is something that can be done within settlement areas instead of destroying the countryside
- Original reason for refusal remains

6.5 Applicant's agent (summarised)

The dwelling would be a new power generation, zero carbon self-build experimental home, designed specifically to the applicant's requirements. It would be built as an exemplary example of a highly sustainable, self-sufficient family home. This would be a self-build home.

The new house would be for the enjoyment of the applicant and his family and would be a self-build project. The Applicant and his family are on the Council's Self-Build and Custom Housing Register, and the provision of this house would meet the Council's statutory duty to provide a plot for them. This is a material consideration which weighs heavily in favour of the application proposals.

The layout of the buildings that form the dwelling has been designed to reflect and reference the local agricultural vernacular. The main house extends behind the separate annex and garage that both face the road. This creates a courtyard and an arrangement that references a traditional farmyard.

Alongside the self-build aspirations the applicant would also like to use this home to influence buildings moving forward through his profession as a Senior Engineer at the Institution of Engineering and Technology (IET), formerly the Institution of Electrical Engineers (IEE). The mission of the IET is to inspire, inform and influence.

One of the biggest challenges in the transition to net zero-carbon is the lack of knowledge in low carbon technologies especially in the integration of differing systems. One solution to this challenge is the creation of a 'Prosumer' within the new British Standards. A Prosumer is a low voltage electrical installation which both produces and consumes energy, is managed with Smart Technology and is compatible with new and existing systems. These installations typically have PV Arrays, Wind Turbines and other generation devices alongside storage devices (batteries) and management technologies.

The key with Prosumers is that it is about managing energy throughout the day not just locally within the building itself but also through to the National Grid providing potential for generation, storage and top up of the National Grid when required. A truly ultra-low emission solution to moving towards a net zero carbon economy.

The 'experiment' would be the creation of a home designed to Zero fabric standards supplemented with electrical generation, storage and management technologies. Data from the home would be made available to the Institution of Engineering and Technology (IET) and other academic organisations. The knowledge and data would also inform the applicant directly in his work on National and International Committees which develop both international and British Standards.

The application proposals are accompanied by a Section 106 agreement that covenants the applicant to build a self-build home that meets the definition set out in the Self-Build and Custom Housebuilding Act 2015, and to build a zero-carbon home that would meet the definition as set out in the Zero Carbon Hub. The provisions of the S106 would ensure a highly sustainable development in terms of its energy consumption and environmental impact.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

- 7.2 The key considerations in this instance are:
- Principle
 - Residential amenity
 - Highway safety, access and parking
 - Flood risk and drainage
 - Other considerations
- 7.3 Principle
- 7.4 The Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The Council currently has 81 entries on its register, 77 of these being for individual plots and 4 groups seeking 10 plots. The applicant is on the Council's Self-build and Custom House Register.
- 7.5 Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at paragraph 5.3.5 that "within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met". This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in three recent appeal decisions in the District (APP/A2525/W/21/3270402, APP/A2525/W/21/3270404 and APP/A2525/W/21/3270308), despite acknowledging that the statutory requirement re self-build and custom-build is a material consideration, that the appeal sites were not a suitable location for that type of housing. This demonstrates the above point in practice.
- 7.6 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 remainder of this report will therefore consider whether there are any material considerations that indicate permission should not be granted for the proposed development.
- 7.7 The site is not located within any defined settlement boundary as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). It is therefore in the countryside in planning policy terms.
- 7.8 Policy 1 of the SELLP states that development in the countryside will only be permitted where it 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.
- 7.9 The supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The proposal is not considered to meet the provisions of either of these policies. It also does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).
- 7.10 Policy 17 (Providing a Mix of Housing) sets out that the provision "of new houses will seek to meet the long term needs of the Plan area in order to maintain and provide mixed, inclusive and sustainable communities" and that the "Local Plan will also seek to meet the housing needs of non-travelling Gypsy and Traveller households and also custom and self-builders as they may come forward."
- 7.11 However, open market housing, which this self-build housing would be considered to be, is not a development type that requires a countryside location. This is particularly the case in this

instance where the Council has a development plan in place with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (5.9 years as at 31st March 2022).

- 7.12 Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that the development of a dwelling is necessary to this location. In terms of the 3 dimensions of sustainable development, the following has been considered:
- 7.13 - An economic role:
It is accepted that future occupants may work locally, support local services and therefore make a contribution to the local economy. There may also be employment opportunities associated with the construction, albeit in the short term. Overall, however, it is considered that there are no significant long term economic benefits resulting from the construction of a dwelling in this location.
- 7.14 - A social/community role:
The proposal would make a contribution, albeit small, towards housing supply in the district (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings).
- 7.15 However, the site does not relate well to any existing settlement. It is approximately 1.3km from the centre of Sutton St James and some 7km from Long Sutton. There are no footpaths, street lighting or bus stops served by a regular bus service nearby. Consequently, pedestrian access would be potentially hazardous due to the lack of footpath connection from the site as well as street lighting and Draw Dyke (B1165) being subject to the national speed limit. Access to the nearest services and facilities would be difficult without the use of a private car. It is, therefore, considered that the proposal would be contrary to Paragraph 110 of the National Planning Policy Framework (NPPF), 2021 which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 112 which states that priority should be given to pedestrian (and cycle) movements and that the scope for conflict between pedestrians and vehicles should be minimised. In locational terms therefore, it is not considered to be appropriate for housing, as opposed to within a settlement limit.
- 7.16 - An environmental role:
It is accepted that the proposal would be a new power generation, zero carbon experimental home. Supporting information states that it is envisaged that it would use less energy than it would generate. However, supporting the continued growth of this form of development in a relatively unsustainable location is not presently considered to be environmentally sound. There is no necessity for the proposal in this location as opposed to a site within a defined settlement limit.
- 7.17 Moreover, the site is agricultural land located within the countryside and is currently undeveloped. It has a distinctly open and 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 constitute an intrusive element that would domesticate and materially change the present open and rural character of the site.
- 7.18 It is intended that the proposed development be a new power generation, zero carbon dwelling and the full sustainability credentials are set out in the submitted Design and Access Statement. Whilst this approach is commended, this does not overcome the fact that there is not an identified need for such a dwelling in this location.
- 7.19 In terms of national planning policy, Paragraph 80 of the NPPF makes provision for new 'isolated' dwellings in the countryside in limited circumstances. The meaning of the term 'isolated' was a matter discussed in *Braintree District Council v Secretary of State for Communities and Local Government* 2 P. & C.R. 9. In that instance, the Court of Appeal supported the Inspector's approach to the question of "isolated homes in the countryside", saying that the decision maker must consider, "whether would be physically isolated, in the sense of being isolated from a settlement". What is a "settlement", and whether the development would be "isolated" from a settlement are both matters of planning judgment for the decision-maker on the facts of the particular case. In *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* EWCA Civ 320, the

judgement builds upon that reached in the Braintree case, confirming that the measure for whether a site is isolated is its proximity to a settlement, not other dwellings.

- 7.20 Applying the above interpretation, it can be argued that the application site is isolated from a settlement and that Paragraph 80 can be considered of relevance to the proposal.
- 7.21 Paragraph 80 sets out that "planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential building; or
e) the design is of exceptional quality, in that it:
- is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
- would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."
- 7.22 Parts (a) - (d) do not apply to this proposal, therefore the only part the application can be assessed against is (e). Establishing whether a proposal is of truly outstanding design is invariably a subjective matter. It is accepted that the proposed dwelling is bespoke and of a relatively high standard in terms of architectural design. However, it is debateable whether it meets the relevant requirements in the sense that it is "truly outstanding". A scheme has to be of exceptional quality and possess features of exceptional design quality. Furthermore, whilst the renewable energy/wider sustainability credentials of the proposed dwelling are welcomed, the measures proposed are not so unusual as to be 'exceptional'.
- 7.23 In terms of the second element of (e), the site is open land that is not unattractive in appearance and contributes to the rural nature of the area. By virtue of this, the introduction of a dwelling to the site would not significantly enhance its immediate setting, nor be sensitive to the defining characteristics of the local area.
- 7.24 Given the above, on balance, it is not considered that the application site is a suitable site for residential development such as that proposed. In the context of Policy 1, it is clearly evident that in principle the site does not accord with the spatial strategy of the SELLP. Although there would be some benefits in terms of the creation of a new power generation, zero carbon self-build experimental home (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings), it is considered that these benefits are outweighed by the harm that would be caused by reason of the site's distance from local services and facilities, plus the impact the development would have on the character and appearance of the countryside.
- 7.25 Furthermore, the Council is capable of demonstrating a 5-year housing land supply (5.9 years as at 31st March 2022). The proposal also does not accord with the provisions of Paragraph 80 of the NPPF relating to isolated dwellings in the countryside.
- 7.26 It is noted that the application is accompanied by a draft S106 planning obligation that covenants the applicant to build a self-build home that meets the definition set out in the Self-Build and Custom Housebuilding Act 2015, and to build a zero-carbon home that would meet the definition as set out in the Zero Carbon Hub. The applicant has indicated that such an agreement would ensure a highly sustainable development in terms of its energy consumption and environmental impact. However, the entering of such an agreement would not overcome the aforementioned concerns.
- 7.27 Amenity
- 7.28 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 NPPF.

- 7.29 A bungalow (Ponderosa) is located almost opposite. Other residential properties nearby include "The Oak Grove" approximately 200 metres to the south-east on the opposite side of Draw Dyke and "Birchwood" some 270 m to the west. Both are associated with rural based businesses.
- 7.30 The dwelling would be set back from Draw Dyke and would be some 50 metres from Ponderosa. Its southern elevation would be blank at ground floor level. It would be used as a family home. It is considered that the amenity of neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, overbearing effect, overshadowing, noise and disturbance, etc.
- 7.31 The proposal therefore complies with Policies 2 and 3 of the SELLP on amenity grounds.
- 7.32 Highway Safety
- 7.33 An existing access would be utilised and upgraded to serve the proposed dwelling. The Highways Authority has raised no objection to the proposed access arrangements on highway safety grounds. The proposal is therefore considered to be in accordance with Policy 2 of the Local Plan, which requires it to be demonstrated that access and vehicle generation levels will be acceptable.
- 7.34 Appendix 6 of the Local Plan sets out minimum parking standards, including for new residential development. 3 parking spaces within the curtilage should be provided for dwellings with 4 or more bedrooms. The proposal complies with this requirement.
- 7.35 Flood Risk/Drainage
- 7.36 Policy 4 of the SELLP is concerned with flood risk management and states, inter alia, that new development within Flood Zones 2 and 3 should pass the sequential test and be accompanied by a site specific flood risk assessment which should propose appropriate flood resistance and resilience measures to ensure the development maintains an appropriate level of safety for its lifetime.
- 7.37 The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. For development to pass the sequential test it needs to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.
- 7.38 The Environment Agency's Flood Maps 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 Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.
- 7.39 The South Holland SFRA indicates that the site is located within an area identified as "Danger for Some". It is possible for development of this nature to be delivered within areas of the district that are of lower flood risk. The proposal therefore fails to satisfy the sequential test. It is considered that 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 SELLP and advice within paragraph 161 of the National Planning Policy Framework, 2021.
- 7.40 Drainage
- 7.41 Policy 4 of the SELLP states that the development should incorporate the use of Sustainable Drainage Systems (SuDS) and demonstrate that adequate foul water treatment and disposal already exists or can be provided in time to serve the development. The proposal is satisfactory in this respect.

7.42 Ecology

- 7.43 Policy 3 of the SELLP indicates that development proposals should, where relevant to the proposal, include the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity.
- 7.44 Policy 28 indicates that all development should provide an overall gain in biodiversity. The explanatory text sets out that development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species, such as, the use of bat roost boxes, green roofs or walls, and integrating nesting opportunities into buildings and green infrastructure.
- 7.45 The proposal includes several ecology measures, including retention of the existing hedging, new tree and native hedge planting, a wildflower meadow and bird boxes.
- 7.46 The proposal satisfactorily complies with Policies 3 and 28 in terms of ecology.

7.47 Planning Balance

- 7.48 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.
- 7.49 The site is not located within any defined settlement boundary as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). As per Policy 1 of the SELLP it is classed as being in the 'Countryside' in planning policy terms. Policy 1 states that development in the Countryside will only 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".
- 7.50 It is accepted that authorities must give permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area, and that there is demand for such plots in the area. However, it is not considered that open market housing, which self-build housing is considered to be, is a type of development that requires a countryside location. This is particularly the case in this instance where the Council has a development plan in place with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (5.9 years as of 31st March 2022).
- 7.51 Furthermore, although the property would constitute a new power generation, zero carbon dwelling that would bring small economic benefits to the area, 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 and the development's effect upon the character and appearance of the countryside.
- 7.52 More specifically, the site does not relate well to any existing settlement. It is approximately 1.3km from the centre of Sutton St James and 7km from Long Sutton. There are no footpaths, street lighting or bus stops served by a regular bus service nearby. Consequently, pedestrian access would potentially be hazardous due to the lack of footpath connection from the site as well as street lighting and Draw Dyke (B1165) being subject to the national speed limit. Access to the nearest services and facilities would therefore be difficult without the use of a private car. It is therefore considered that the proposal would be contrary to Paragraph 110 of the National Planning Policy Framework (2021) (NPPF), which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 112 which states that priority should be given to pedestrian (and cycle) movements and that the scope for conflict between pedestrians and vehicles should be minimised.
- 7.53 Moreover, the site is agricultural land that has a distinctly open and 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 constitute an intrusive element that would domesticate and materially change the present open

and rural character of the site. Policies 2 and 3 of the SELLP give weight to 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 general conformity with Sections 12 and 15 of the NPPF. It would therefore be contrary to both local and national policy in this regard.

7.54 Paragraph 80 of the NPPF 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.

7.55 Finally, the South East Lincolnshire Flood Risk Assessment, 2017 indicates that the site is located within an area identified as "Danger for Some". It is possible for development of this nature to be delivered within areas of the district that are of lower flood risk. The proposal therefore fails to satisfy the sequential test.

7.56 Conclusion

7.57 In this case 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.

7.58 **Additional Considerations**

7.59 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.

7.60 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.

8.0 RECOMMENDATIONS

8.1 Refuse permission for the reasons set out at Section 9 of the report.

9.0 REASONS FOR REFUSAL

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 not located within any defined settlement boundary as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). As per Policy 1 of the SELLP it is classed as being in the 'Countryside' in planning policy terms. Policy 1 states that development in the Countryside will only 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 is accepted that authorities must give permission for enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area, and that there is demand for such plots in the area. However, it is not considered that open market housing, which self-build housing is considered to be, is a type of development that requires a countryside location. This is particularly the case in this instance where the Council has a development plan in place with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (8.5 years as of 31st March 2021).

Furthermore, although the property would constitute a new power generation, zero carbon dwelling that would bring small economic benefits to the area, 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 and the development's effect upon the character and appearance of the countryside.

More specifically, the site does not relate well to any existing settlement. It is approximately 1.3km from the centre of Sutton St James and 7km from Long Sutton. There are no footpaths, street lighting or bus stops served by a regular bus service nearby. Consequently, pedestrian access would potentially be hazardous due to the lack of footpath connection from the site as well as street lighting and Draw Dyke (B1165) being subject to the national speed limit. Access to the nearest services and facilities would therefore be difficult without the use of a private car. It is therefore considered that the proposal would be contrary to Paragraph 110 of the National Planning Policy Framework (2021) (NPPF), which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 112 which states that priority should be given to pedestrian (and cycle) movements and that the scope for conflict between pedestrians and vehicles should be minimised.

Moreover, the site is agricultural land that has a distinctly open and 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 constitute an intrusive element that would domesticate and materially change the present open and rural character of the site. Policies 2 and 3 of the SELLP give weight to 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 general conformity with Sections 12 and 15 of the NPPF. It would therefore be contrary to both local and national policy in this regard.

Paragraph 80 of the NPPF 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.

Finally, the South East Lincolnshire Flood Risk Assessment, 2017 indicates that the site is located within an area identified as "Danger for Some". It is possible for development of this nature to be delivered within areas of the district that are of lower flood risk. The proposal therefore fails to satisfy the sequential test.

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.

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 paragraph 161 of the National Planning Policy Framework, 2021.
3. Note: 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 that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reasons for the refusal, 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>

4. Note: The determined plans are:
519.PL.01
519.PL.02
519.PL.03
519.PL.04
519.PL.05
519.PL.06
519 - Visual 1 dated August 2022 - View driving East along Draw Dyke
519 - Visual 2 dated August 2022 - View driving west along Draw Dyke
519 - Visual 3 dated August 2022 - View driving East along Draw Dyke with application site adjacent
519 - Visual 4 dated August 2022 - Diagrammatic View from above
519 - Visual 5 dated August 2022 - View from Childersgate Lane looking South-West towards the application site
CGI dated July 2021 - View from entrance on Draw Dyke
CGI dated July 2021 - View from Northern drain looking South-East
Landscape and Visual Appraisal (Project No. BLA022) with appendices by Briarwood Landscape Architecture dated June 2021
Planning Statement by Waller Planning dated July 2021
Design and Access Statement (Project No. 519) by Studio 11 Architecture dated August 2022
Flood Risk Assessment by S M Hemmings dated 29 June 2021
Draft S106 Planning Obligation

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A Plan A

