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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H20-0790-22 **Date of Decision:** 10th November 2022

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

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 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 (5.9 years as of 31st March 2022).

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.

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 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>

The determined plans are:

519.PL.01A

519.PL.02

519.PL.03

519.PL.04A

519.PL.05A

519.PL.06A

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

Phil Norman



Head of Planning
South Holland District Council

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@planninginspectorate.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.