

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H20-1014-23 **Applicant:** Mr F Campling
Proposal: Proposed Residential Development - 3 Bungalows
Location: Adj 2 Jarvis Gate Sutton St James Spalding
Terminal Date: 29th February 2024

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
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31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

5 Delivering a sufficient supply of homes
12 Achieving well-designed and beautiful places
14 Meeting the challenge of climate change, flooding and coastal change
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
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	2	0
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to the outline application for three bungalows. The plan is indicative only.

Whilst the plans are indicative, and drawn to 1:200 scale, the following are the indicative sizes:

-Plot 1 has a bungalow which has a total length of 15.09m, and 13m in width. Its garage is approximately 3.38m wide by 7.5m long (rounded due to scale). Total plot width is 17.62m but this includes the ditch to the side and flank tree planting. Plot 1 is set in 1.12m from the flank boundary of Plot 2. Plot 1 is set approximately 1.6m in from the trunk of trees flanking the boundary with the neighbour to the north.

-Plot 2 has a bungalow which scales at 14.6m total length and a 13.63m wide. The garage appears to be 7.48m x 3.75m. Total Plot width is 16.15m. Plot 2 is set in 1.22m from the boundary with Plot 1 and 1.67m from the boundary with Plot 2.

-Plot 3 has a 14.12m total length with 13.47m width. Garage appears to measures 3.76m wide and 6.7m length. Total Plot width is 16.91m. Plot 3 is set in 1.51m from the boundary with Plot 2. Plot 3 is set in 8.57m with Number 2 Jarvis Gate and set forward of the building line by approximately 5.84m.

Site Description

The site is 0.271 hectares, adjacent to number 2 Jarvis Gate, a residential property on a prominent corner of Jarvis Gate with Chapel Gate in the village of Sutton St. James. The paddock is in the eastern side of Jarvis gate to the north of the main dwelling. The red line boundary separates itself off from the main site, the application form indicating it is no longer owned by the host property, but functionally the paddock has clearly been connected with 2 Jarvis Gate in the past and has a shared access at present.

The site is screened by prominent trees, along the frontage and along the flank northern boundary, with its neighbour, number 12 Jarvis Gate. One tree, situated by the field gate, is an Ash Tree that has a circumference at 1.5m above ground of 3.2m, which makes this tree a Veteran Tree.

The majority of the site is subject to a group Tree Preservation Order (TPO) although the flank northern boundary trees are excluded from this TPO.

The trees are substantial and in full view of the position within the village. They have considerable amenity value.

Further prominent trees are visible from the street from within the central part of the site which are part of the Group TPO.

History

TPO-20-02-1988 - Sutton St. James Tree Preservation Order No. 2 - 12th September 1988

H20-0044-18 - Works to Sutton St. James Tree Preservation Order No. 2 1988. Application to remove a storm damaged Horse Chestnut within Group 2. Part of the description was to replace the new tree. Condition 1 required works to be carried out within 2 years. Approved 31st January 2018.

H20-0392-19 - Works to Sutton St. James Tree Preservation Order No. 2 1988. Works to T1 - Oak - Fell. Condition 4 required the replacement of a hornbeam. Approved 10th September 2019.

H20-1047-22 - Works to Sutton St. James Tree Preservation Order No. 2 1988. Application to carry out works to three mature trees located on the western boundary of the paddock, Trees T1, T2 and

T3 adjacent to Jarvis Gate which lies immediately to the north of the house known as 'The Yews', 2 Jarvis Gate. Approved 19th December 2022.

Consultation Responses

LCC Local Highway and Lead Local Flood Authority

No objections.

SHDC Environmental Protection

No comments

IDB

Some works may require Land Drainage Consent in terms of Byelaw 3 - Discharge of foul treated water or treated foul into a watercourse. No evidence submitted of disposal of surface water via infiltration. If consent is required, discharge should be in line with the Non-Statutory technical standards for sustainable drainage systems (SuDs). The Board is unlikely to grant consent for discharges in excess of greenfield rate.

Public

Three responses were received from the public which raise some or all of the following points:

-Concern that large tree next to the field entrance, opposite 5 Jarvis Gate, should be preserved and not destroyed.

-Concerned about loss of privacy by trees being removed. Fence requested to be installed to protect privacy. Concerned about tree removal as this is a green highway with a lot of wildlife. Requests siting of new trees or hedging. Flooding concerns.

-Plan says frontage trees are to remain, concerns about proximity of building work to property. Query about fencing.

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 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development and Sustainability

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 to 2036. Policy 1 (Spatial Strategy) expresses this 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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Minor Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within Minor Service Centres will normally be limited to Allocated and Committed sites and infill.

The application site in this instance is within Sutton St, James, a Minor Service Centre, and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location is considered to be appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy. It is noted in the Design and Access Statement that the site is within the Local Plan, it should be clarified that the site is within the settlement boundary only, and not an allocation.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, and the impact on trees (some of which are preserved trees), which are discussed in turn as follows.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require 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.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The main issues to consider in the context of this policy relates to the presence of prominent trees, some of which are subject to a current Tree Preservation Order. One tree in particular within the TPO group is also considered to be a Veteran Tree according to standing advice and the Tree Officer. A tree survey has not been submitted with the application.

Paragraph 136 of the NPPF states: "Trees make an important contribution to the character and quality of urban environments, and can also help to mitigate and adapt to climate change.....existing trees ...retained where possible."

Paragraph 180 states that "Planning Policies and decisions should contribute and to enhance the nature and local environment" by, in section b) "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 trees."

The site has extensive tree cover at the front, flank, central section and rear portion of the site. Taking into account root protection areas, there is very little of the site that would be able to be built on which do not affect some of the trees, many of which are preserved due to the existence of a Tree Preservation Order. Whilst the submitted drawing is indicative, the extent of the three bungalows and three access points will result in either the direct loss of both protected and unprotected trees, or will impact on their long term health, thereby eroding the character of this site. The scale and massing of the bungalows would result in the removal of trees along the flank boundary with the neighbour, eroding the amenity enjoyed by the neighbour. There would be post development pressure to remove the protected trees in the centre of the site, as future occupiers are highly likely to complain of shading and overshadowing of the remaining preserved trees. The health of the trees is likely to be compromised even if a no dig solution were to be employed for the entire development. The overall design of trying to fit three bungalows on a site with multiple trees of amenity value, highly visible in the street scene, would not result in a more beautiful development, would be visually unattractive and deplete the character that this site adds to the village. This is therefore an obviously poor design, because it fails to take into account the existing trees and their root protection area, resulting in an adverse impact on local character and landscape setting. The development would not sit comfortably or add positively to its landscape surroundings; in fact it would deplete it to a significant degree.

The proposal is therefore considered to be contrary to Policies 2 and 3 of the SELLP in design terms and would represent overdevelopment of the site taking into account the constraints that the trees on site impose. The siting, design and scale of the proposals are not respectful of the existing trees and the character of the area is therefore compromised. The proposal would cause an adverse impact on the character and appearance of the area as a result. The proposals are also considered to be contrary to policies 28 and 31 of the SELLP which seek to protect trees which form an important biodiversity component and ensure development is resilient to climate change.

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 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 2 specifically refers to the relationship to existing development, the impact on trees, neighbouring land uses by means of visual intrusion, and the impact on natural habitats.

Paragraph 3.3.3 of the supporting text in the SELLP states that proposals should "integrate sensitively with the character and appearance of the surrounding area" whilst paragraph 3.3.8 states that proposals "must ensure that new development takes into account and protects the amenities of neighbouring properties." The proposals fail to integrate sensitively with the plot, creating an out of character development, and does not protect the amenity of the neighbour.

An objection has been received regarding the removal of the bank of trees along the northern boundary with the adjoining occupier. The main concern relates to the loss of privacy that removal of the trees along the boundary would cause. It is correct that the trees along the flank boundary do

provide screening from the adjacent property and are a visual barrier - and would screen development on the application site if retained. The proposals seek to remove them in their entirety, mainly due to the fact that the footprints of the bungalows would be close to the boundary. The removal of the trees would be a stark change. Privacy would indeed be diminished from the neighbouring property. The respondent states that windows exist along the flank of the property, which means the impact would be increased.

Number 12 Jarvis Gate, Sutton St James is a detached property, and is set in from the boundary. A ditch lies in between this property and the application site. The trees along the boundary appear to have grown out of the ditch or very close to it. Whilst it is accepted that the property is detached and set in from the boundary, because of the substantial nature of the trees, their loss is considered to affect the outlook and to some extent the privacy of the neighbour. It is recognised that these trees are not subject to a Tree Preservation Order at the present time. However, they do add to the visual amenity of the area and act as a privacy screen. As a result, it is considered that the removal of the trees would increase visual intrusion into the site and their loss is considered to result in a loss of privacy and amenity to the adjoining occupier. As such the proposal is considered to be contrary to Policies 2 and 3 of the SELLP which seek to protect residential amenity; the proposal therefore fails to maximise opportunities that improve character and quality of the area.

Impact on Trees and Biodiversity

Paragraph 186 states that when determining planning applications, local planning applications should apply a number of principles, and within criterion c), it states "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists." Footnote 67 applies in this situation and lists the exceptional circumstances as infrastructure projects, including nationally significant infrastructure projects, etc. where the public benefit would clearly outweigh the loss or deterioration of habitat.

Policy 28 of the SELLP seeks a high quality, comprehensive ecological network of interconnected designated sites and to protect, enhance and manage natural assets. It seeks to ensure that all development proposals provide an overall net gain in biodiversity by protecting the biodiversity value of land and trees (including veteran trees) minimising the fragmentation of habitats, and maximising the opportunities for enhancement and connection of natural habitats. Policy 31 of the SELLP seeks to promote and enhance green infrastructure and provide an overall net gain in biodiversity to improve the resilience of ecosystems within and beyond the site. Policy 2 also seeks to protect trees.

The site is subject to a group Tree Preservation Order in 1988, which included Trees along the front of the site, the interior and at the rear of the site. Several applications have been made to make changes to the original group.

Two frontage trees were agreed to be felled as part of H20-1047-22, but this has not been implemented and at the time of the site visit remain in situ. They are situated at the front of the site, one in the corner and another a few metres along the boundary. Whilst it is accepted that the number of preserved trees on site would be potentially reduced if H20-1047-22 were to be implemented, there are still a number of trees, in more critical locations on the plot, that would still be affected by the proposals, especially those in the centre group which severely restrict what could be constructed on the central part of the plot. In addition, removing two frontage trees does not affect the remaining Veteran Ash Tree near the field gate.

Application H20-0044-18 related to a damaged tree on a different part of 2 Jarvis Gate, outside of the application site, that was replaced by a hornbeam, which was in situ at the time of the site visit. However, application H20-0044-18 related to the removal of a storm damaged horse-chestnut tree, which was part of the group TPO, in the central portion of the plot. Part of the permission involved replacing the horse-chestnut tree in the centre of the site. This has not occurred. In effect, therefore, a further horse chestnut tree should be in the central part of the plot that is not present.

The indicative drawing shows frontage trees to remain in situ with three access points in between and three bungalows arranged in a linear fashion. The bungalows will be forward of the building line, which is necessitated by the fact that the three protected trees in plots 2 and 3 are fairly centrally located - but it should be noted that the canopy spread as shown on the indicative drawing is in no way representative of the actual trees on site; their spread is more extensive than this, as is their root protection areas as calculated from their diameter.

The drawing shows 12 frontage trees of varying sizes to remain. The position of the access points are beneath the canopy of several of the trees, with the tree trunks of at least 5 trees to be within one metre of the proposed works. In reality, many of the trees are unlikely to survive or be significantly affected by the proposals. The position of the access points is highly likely to adversely affect the long term health of the trees due to the proximity of multiple access points, which intersect numerous root protection areas. The tree screen along the front is of high amenity value and should be retained as a group resource, as it is a fundamental part of the beauty of this site, locality and area character. Even if the two trees were to be removed as part of H20-1047-22, the impact of the development upon frontage trees, including the Veteran Ash Tree by the field gate, which has a circumference of 3.2metres, and a calculated root protection area of 12.22m extending into the site, would be considerable and would result in a dramatic change to the street scene . Its root protection area extends beneath two access points, and potentially beneath footings (as the plan is indicative) which directly contradicts advice on Veteran Trees in the NPPF which recognises that these are a precious resource and irreplaceable. Two of the bungalow access points would intersect the root protection area of this tree on two sides, with one of the access points curving around within the root protection zone, leaving an extremely narrow margin of undisturbed ground. It is considered that there are no exceptional circumstances, in line with Footnote 67 of the NPPF which would allow an exception to its loss. Whilst it is recognised that the indicative plan only shows reduction of the tree canopy rather than its loss, in combination with two access points being positioned either side of the Veteran tree, these factors together would compromise its long term health and result in its demise over time which is not considered to be acceptable. In addition, an objection has specifically referred to this tree and objected to its loss.

Within the site, the Sycamore closest to the existing dwelling at 2 Jarvis Gate, inside the plot. has a girth of 2.9m with a calculated root protection area of 11.07m. The Sycamore parallel to this has a girth of 2.6m and a root protection area of 9.93m. Access to measure centrally located Sycamore within the plot was not possible but it is estimated to have a girth of 2.8m which would mean a root protection area of 10.7m. These root protection areas severely restrict what development can be achieved on the plot, and they intersect with each other, forming a coherent group. They act as a constraint on development. Building so close to this group of preserved trees would adversely affect the long term health of the preserved trees in this location. The indicative drawing does not show the extent of the root protection areas, but the combined extent of the root protection areas calculated from the site visit and physically measuring two of the trees in this group is likely to result in building footprints or areas such as patios being positioned close to or within root protection areas which would adversely affect the long term health of these trees. There is also likely to be post development pressures to fell all three of these trees due to their proximity due to loss of light and outlook as a result of the proximity of the trees to the dwellings, again adversely impacting on the ability to retain these trees on site. The resulting conclusion is therefore, three dwellings on this site represents over development in relation to the position and long term health of preserved trees.

The proposals also result in the total loss of trees along the flank northern boundary, which continues the frontage trees along the side of the plot. These add to the amenity value of the collective tree group. Whilst it is recognised that they are not as of yet subject to a Tree Preservation Order, their removal is specifically to ensure that Plot 1 is not overshadowed by mature trees. This adds credence to the idea that three bungalows is excessive on a site such as this and would be overdevelopment. The loss of these flank trees would adversely affect the street scene and character of the area, and would also impact the neighbour, who has specifically cited concerns over their loss.

The impact on both preserved and unpreserved trees collectively is not considered to be acceptable in this instance. The scheme would also adversely impact upon biodiversity due to their loss. As a result of the proposals it is considered that impact of the proposals leading to the loss or harm to trees, both protected and unprotected, is contrary to policies 2 and 28 of the SELLP, and paragraph 186 of the NPPF.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, 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. 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.

Furthermore, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The Local Highway Authority does not object to the proposals from a highway safety perspective. The proposed bungalows on the indicative plan show a separate access for each of the three dwellings and a garage, but the internal dimensions of the garages are not available. It is unclear if the garages would be of sufficient size taking into account internal walls. No separate car parking is shown on the indicative drawing - it is possible that impermeable areas would increase if further car parking is required. The number of bedrooms has not been disclosed on the application form. This adds to the fact that the scheme is overdevelopment if further impermeable areas are required to satisfy parking requirements

Due to the lack of the objection from the Local Highway Authority, the proposals do not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).

Flooding considerations

Section 14 of the National Planning policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 2 and 3 of the Environment Agency's Flood Maps. These 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.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The SFRA map shows a Residual Flood Hazard Map for the 1% fluvial and 0.5% tidal event as being outside the 'low hazard' area for the present day and in 2116. The site is outside the area at risk in both the present day and in 2116 in terms of the Residual Peak Depth Map for the 1% fluvial

and 1.5% tidal.

The probability of this development flooding from localised drainage systems is low. Failure of Sutton St. James Pumping Station or Sutton Bridge Outfall Sluice could increase the risk at this site. The SFRA considers the residual risk associated with overtopping and a breach in the defences in 2116. The maps show that the site is not at risk. The proposal increases the impermeable area and therefore there will be an increased volume of surface water that has the potential to increase flood risk. It is recommended that the floor level of the dwellings is 0.3m above surrounding level and there is a 0.3m of flood resilient construction above finished floor levels. It is noted that the IDB require evidence of infiltration testing. Had the scheme been otherwise acceptable this aspect could have been resolved with appropriate informatives/conditions.

Given the mitigation measures detailed it is considered that the proposal accords with Policy 4 of the South East Lincolnshire Local Plan and the intentions of the National Planning Policy Framework in terms of flooding.

Impacts of Climate Change

In respect of the climate emergency, section 14 of the National Planning Policy Framework (December 2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

The Flood Risk Assessment states that the proposal increases the impermeable area and therefore there will be an increased volume of surface water that has the potential to increase flood risk. Mitigation measures are proposed to address this impact however. The increased impermeable area would, however, reduce the extent of the site that can be utilised by the unprotected and protected trees due to interference with the root protection areas on the plot. As well as having a direct impact on their long term health, this increases the vulnerability of this site to climate change in terms of the design. Policies 28 and 31 of the SELLP seeks to promote and enhance green infrastructure and provide an overall net gain in biodiversity to improve the resilience of ecosystems within and beyond the site. The extensive footprint of 3 bungalows on a restricted site, with additional impermeable areas including driveways, potentially more parking to accord with the Council's car parking standards, and features such as patios which may be installed post development, collectively erodes the ability of the site to contribute to green infrastructure, thereby degrading the site, rather than enhancing it. As such the proposal would not result in a net gain to biodiversity in terms of green infrastructure. The proposal is therefore contrary to Policies 28 and 31 of the SELLP.

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. A planning balance exercise is useful in setting out the factors weighing for and against proposals.

In economic terms, future occupants of the houses may work locally, support local services and therefore make a contribution to the local economy. There would be short term economic benefits associated with the construction of the dwellings and minor long term benefits of increased spends associated with the households living in the village. The economic benefits resulting from the proposal are minor, but weigh in favour of the proposal.

In community terms, the proposal would make a contribution, albeit small, towards housing supply in the district. This weighs in favour of the proposal.

In environmental terms, the site is within the defined settlement boundary which means the site is within a sustainable location, which weighs in favour of the proposal. However, the site has unprotected trees of amenity value in the street scene and to the neighbouring property, it has protected trees both along the front of the plot and within the site itself, all completely visible and prominent in the street scene that are protected by a Group Tree Preservation Order. One tree that has been lost to the group had not been replaced. And finally, the Group TPO has a Veteran Tree, and irreplaceable resource according to the NPPF. The built form would interfere with the root protection area of protected trees and lead to the loss of the trees along the northern boundary. The

long term health of the protected trees, and because the opportunity to replace the missing horse chestnut tree in the centre of the site will lead to direct and long term harm to protected trees with significant amenity value. The biodiversity of the site, and its green infrastructure potential will be decreased, not enhanced, which in turn reduces its long term resilience in climate change terms in the longer term. The environmental harm outweighs significantly the benefits of the proposal in the planning balance. Overall, harm that the proposal creates significantly and demonstrably outweighs the benefits of the proposal in the overall the planning balance and as such the proposal should be refused planning permission.

Conclusion

The group of TPO trees, and flank boundary trees, together with the veteran tree on site offer substantial amenity value and are prominent in the street scene. They add to biodiversity, green infrastructure and resilience in climate change terms. The scale, combined footprint and siting of three bungalows will severely compromise the long term health of the preserved trees as they will interfere with root protection area of the trees. The frontage trees will also be affected by the hardstanding associated with the access. The extent of the 3 bungalows onto the site, situated in close proximity with each other, with three separate driveways, represents over development, severely impacting the character and appearance of the vicinity. The loss of the flank boundary trees exposes the adjoining neighbouring property to suffer from loss of privacy and outlook. Biodiversity and green infrastructure would be reduced on site. Post development pressure to fell the closest three remaining trees on site is highly likely given their central position which is likely to cause loss of light, and outlook when viewed inside the bungalows. Overall the development is considered to result in harm to trees, the neighbouring property, the street scene and character of the area and should be refused planning permission.

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.