

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H21-0125-20 **Applicant:** Mr & Mrs S Town
Proposal: Proposed change of use of outbuilding to residential dwelling
Location: Longfield Green Dyke Tydd St Mary
Terminal Date: 20th April 2020

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
23	The Reuse of Buildings in the Countryside for Residential Use
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 3, 4, 5, 12, 14 and 15.

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	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought to convert an existing outbuilding to a single dwelling.

Site Description

The site is located in open countryside on the western side of Greendyke. It is occupied by a house (Longfield) and associated brick outbuilding that is currently used for domestic storage, plus vehicular accesses. There are no immediate neighbours.

History

H21-0920-19 - PAA - Proposed change of use of agricultural building into a residential dwelling - Refused 4 November 2019.

Consultation Responses

LCC Highway/SUDS - Does not wish to restrict the grant of permission.

SHDC Environmental Protection - Recommend condition/note regarding unexpected contamination.

Planning Considerations

The main issues in this case are:

- Policy;
- Amenity;
- Highway safety;
- Other material considerations such as flood risk, drainage, ecology and contamination.

Policy

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 appeal site is located outside of a settlement boundary as defined in the South East Lincolnshire Local Plan (SELLP), 2019. For the purposes of the SELLP, the site lies within the countryside.

SELLP Policy 1 directs developments to within settlement boundaries. It also indicates 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. Whilst it is accepted that the proposal would create additional housing within the district, it would not be significant. Moreover, the site is in a relatively isolated rural location. Consequently, occupants of the dwelling would be heavily reliant upon the use of the private motor car to access sources of employment, community facilities and other services necessary for day-to-day living. It is not therefore considered that the proposal would meet the sustainable needs of the area in terms of economic, community or environmental benefits.

Policy 23 of the SELLP indicates that proposals for the conversion of existing buildings which are located outside defined settlement boundaries to residential use will be permitted provided that:

1. the building is structurally sound and capable of conversion without the need for significant extension, alteration or rebuilding;
2. the building is of architectural or historic merit or makes a positive contribution to the character of the landscape, to justify conversion to ensure retention;
3. the proposal is in keeping with its surroundings;

4. the design is sympathetic to the character and appearance of the building in terms of architectural detailing and materials of construction; and
5. development leads to an enhancement of the immediate setting of the building.

This policy essentially relates to rural buildings in the countryside, rather than buildings that already stand within a domestic curtilage, as is the case with the existing outbuilding. Moreover, one of the fundamental aims of this policy is to retain brick built barns that make a significant contribution to the character of an area. Explanatory text accompanying it indicates that not all buildings in the countryside are suitable for conversion because they may, for example, be of poor design and not in keeping. In this case, the building is of utilitarian appearance and not of architectural or historic merit. Consequently, the proposal is not in accordance with Policy 23 of the South East Lincolnshire Local Plan.

Paragraph 79 of the National Planning Policy Framework, 2019 indicates that planning decisions should avoid new isolated homes in the countryside, unless there are exceptional circumstances. They include c) the re-use of redundant or disused buildings where the development would enhance the immediate setting and d) where the development would involve the subdivision of an existing residential dwelling.

The word "isolated" is not defined in the Framework, however in *Braintree District Council v SSCLG & Ors* EWHC 2743 (Admin) the judge found that isolated should be given its ordinary meaning of "far away from other places, buildings or people; remote". The existing outbuilding cannot be considered to be associated with an existing place or settlement, and as such should be considered to be isolated for the purposes of paragraph 79 of the Framework.

In terms of the special circumstances set out in paragraph 79 of the Framework it is considered that parts (a), (b) and (e) do not apply to this case. In terms of part (c) the existing outbuilding does not constitute a redundant or disused building as it is presently in use as domestic storage. Part (d) relates to the subdivision of an existing residential dwelling. The existing outbuilding is separate from the existing dwelling on the site, and stands as an independent building. Although it is currently used for a purpose ancillary to the existing dwelling it would not be reasonable to take the view that the existing outbuilding is an existing residential dwelling. This approach is consistent with that taken by an Inspector in respect of a recent appeal decision (ref. APP/C3620/W/18/3213800 - Woodside Cottage, Standon Lane, Ockley, Dorking, Surrey). It is therefore considered that this part of paragraph 79 of the Framework does not apply to this case.

Residential Amenity

The nearest residential property is "Longfield" itself to the south. Bank House" is some 230 metres to the north and "The Willows" some 260 metres to the south. It is considered that the amenity of nearby residents would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, noise and disturbance, etc.

The proposal satisfactorily complies with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 in this respect.

Highway Safety

An existing vehicular access would be utilised and sufficient on site parking would be available. LCC Highways does not wish to restrict the grant of permission on highway safety grounds. The proposal satisfactorily complies with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan, 2019 in this respect.

Flood Risk

The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. However, they 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 East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test

The SFRA indicates that the site is within an area designated as "Danger for Some". However, the Framework states at paragraph 164 that minor development and changes of use applications should not be subject to the sequential or exceptions tests, unless falling within certain types of

development. Given the nature of the scheme, neither the sequential or exception test is required in this case. However, paragraph 164 also stresses that proposals should still meet the requirements for site specific flood risk assessments. The proposal is a more vulnerable development. In this case it is considered that the building could be adequately protected from flooding by means of flood protection measures (eg, the installation of demountable flood barriers, etc).

The proposal therefore satisfactorily complies with Policy 4 of the SELLP and advice within the National Planning Policy Framework, 2019.

Drainage

Foul water would be disposed of to a septic tank and surface water to soakaways. This arrangement is considered to be suitable given the soil characteristics within this part of the district and the distance from neighbouring property.

Ecology

The characteristics of the building are such that it is unlikely to be inhabited by bats or Barn Owls. Nevertheless, Policy 28 indicates that development proposals should provide an overall net gain in biodiversity. In accordance with this policy it is recommended that a barn owl box be erected prior to work commencing if permission was forthcoming.

Conclusion

The proposal fails to accord with Policies 1 and 23 of the South East Lincolnshire Local Plan (SELLP), 2019 and advice within Paragraph 79 of the National Planning Policy Framework, 2019.

SELLP Policy 1 directs new development within settlement boundaries. It indicates 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. In this case the proposal would make a minimal contribution to the supply of housing required to meet the needs of present and future generations within the district. It may also bring small economic benefits to the area. However, these factors are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such as the site's unsatisfactory relationship to local services and facilities and reliance upon the motor car to access sources of employment, community facilities and other services necessary for day-to-day living.

Policy 23 of the SELLP indicates that proposals for the conversion of existing buildings which are located outside defined settlement boundaries to residential use will be permitted subject to compliance with specific criteria. They include the building being of architectural or historic merit or making a positive contribution to the character of the landscape, to justify conversion to ensure retention. This policy essentially relates to rural buildings in the countryside, rather than buildings that already stand within a domestic curtilage, as is the case with the existing outbuilding. Moreover, one of the fundamental aims of this policy is to retain brick built barns that make a significant contribution to the character of an area. Explanatory text accompanying it indicates that not all buildings in the countryside are suitable for conversion because they may, for example, be of poor design and not in keeping. In this case, the building is of utilitarian appearance and not of architectural or historic merit. Consequently, the proposal fails to accord with Policy 23 of the South East Lincolnshire Local Plan.

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In terms of part (c) the existing outbuilding does not constitute a redundant or disused building as it is presently in use as domestic storage. Part (d) relates to the subdivision of an existing residential dwelling. The existing outbuilding is separate from the existing dwelling on the site, and stands as an independent building. Although it is currently used for a purpose ancillary to the existing dwelling it would not be reasonable to take the view that the existing outbuilding is an existing residential dwelling. This approach is consistent with a recent appeal decision (ref. APP/C3620/W/18/3213800 - Woodside Cottage, Standon Lane, Ockley, Dorking, Surrey). It is therefore considered that this

part of paragraph 79 of the Framework does not apply to this case.

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.