

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H21-0936-23 **Applicant:** Mr & Mrs N Payne
Proposal: Erection of two single dwellings and garages
Location: Adj Tysdale Bungalow Common Way Tydd St Mary
Terminal Date: 9th 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
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2023**

Sections 2, 4, 5, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework (December 2023)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL				

	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This planning application is for the erection of two dwellings with associated garages.

Site Description

The proposal site is currently an area of open grass, used as a plot of ancillary land to Tysdale Bungalow. To the north, east and west, the area is characterised by ribbon development within the settlement of Tydd St Mary. To the south, is open countryside.

History

H21-0340-17

Residential development. Refused on 28-06-17.

Consultation Responses

Local Residents

2 Local residents submitted objections to the proposal. These can be summarised like so:

- Loss of green space in the conservation area.
- Impact upon highway safety
- Impact of construction noise upon nearby residences

Tydd St Mary Parish Council

Concerns over highway safety and lack of proposed materials means that the conservation officer should pay special attention to the details.

South Holland Internal Drainage Board

No comments, the proposal should also be referred to the North Level Internal Drainage Board

South Holland District Council Environmental Protection Team

No comments.

Lincolnshire County Council Historic Environment Officer

The site is located in a field which has not been developed since at least the late 19th century, as can be seen in the 1st edition 25 inch Ordnance Survey map. The site is located within the medieval settlement of Tydd St Mary, close to recorded saltern mounds. Any potential archaeological remains are likely to survive due to the undisturbed nature of the ground. However, we do not have enough information about what potential archaeological remains survive or their significance.

The Conservation Officer that advises the Local Planning Authority should be consulted as to the proposal's effect on the Tydd St Mary Conservation Area.

The proposed development consists of the construction of two dwellings and garages. Any groundworks associated with this are likely to have an impact on any surviving archaeological remains.

Recommendation:

Currently there is insufficient specific information on the archaeological potential for the site and the extent of impact to buried archaeological remains from the proposed development. Given the known high archaeological potential, but as yet unknown character and extent, I recommend that the applicant submit the results of a trial trench evaluation which should aim to determine the presence, absence, significance, extent depth and character of any archaeological remains which could be impacted by the proposed development as noted above.

Trenching results are also essential for effective risk management and to inform programme scheduling and budget management. Failing to do so could lead to unnecessary destruction of heritage assets, potential programme delays and excessive cost increases that could otherwise be avoided.

It should also be noted that preferred mitigation strategies will include preservation in situ (avoidance of sensitive areas) where possible and open area excavation where not. It is important that the archaeological implications for this development have been fully considered as part of the application process and in the project feasibility assessment. In short, archaeology may be a significant element of this project and early understanding of the site resource and mitigation requirements will be essential.

This information should be provided with the application so that an informed planning recommendation can be made and to meet the requirements of the National Planning Policy Framework (NPPF) paragraphs 200 and 211.

This will also help inform an appropriate mitigation strategy for the proposed impact if necessary and should permission be subsequently granted.

Lincolnshire County Council as Lead Local Highways and Flood Authority

No objections.

Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Flooding Risk Considerations
- Heritage Considerations
- Biodiversity

Evaluation

Section 38 (5), (5A), (5B) and (5C) of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023, requires for the purposes of any area in England, that the Local Planning Authority makes decisions in accordance with the adopted Development Plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

Section 38 (5) of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023 specifically details that:

(5) If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to become part of the development plan.

(5A) For the purposes of any area in England, subsections (5B) and (5C) apply if, for the purposes

of any determination to be made under the planning Acts, regard is to be had to: (a) the development plan, and (b) any national development management policies.

(5B) Subject to subsections (5) and (5C), the determination must be made in accordance with the development plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

(5C) If to any extent the development plan conflicts with a national development management policy, the conflict must be resolved in favour of the national development management policy".

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

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is also able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

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.

As such, development within these settlements, subject to the proposals' compliance with other relevant national and local plan policies, may be considered acceptable in principle where they lie within the settlement boundaries of that settlement.

The National Planning Policy Framework, (NPPF) (December 2023) outlines, within para 60, that "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay and that land with permission is developed without unnecessary delay".

Para 70 of the NPPF (December 2023) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly"). This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The application site in this instance is within the area of Tydd St Mary, a Minor Service Centre, however, it is not within the settlement boundary as defined by Policy 1 of the South East Lincolnshire Local Plan, 2019 (SELLP) and effectively comprises an 'edge of settlement' site.

Policy 1 states that " The rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Minor Service Centres and Other Service Centres and Settlements is designated as Countryside". The site is located outside of the Tydd St Mary settlement boundary, as defined within the SELLP. It is therefore regarded as being within the countryside in Policy terms. As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.

Policy 1 expresses that development within the countryside is limited to that 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". Residential development within the open countryside, which does not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

- An Economic Role:

It is considered that the proposed development would have the capacity to support the local economy through employment opportunities associated with construction of the development and through the future occupants who may work locally and support local services. These are considered to have limited weight overall, given the clear policy conflict and lack of evidence that demonstrates a more acceptable location, in clear policy terms, cannot be developed.

- A Social Role:

The proposal would make a contribution toward housing supply in the district. However, other than this, no contributions are proposed to the local community due to the proposed scale and none of the site seeks to create public facilities. As such, the Local Planning Authority cannot conclude that there is any community benefits promoted by this development.

-An Environmental Role:

It is not considered that the occupiers of the proposed dwellings would have any greater reliance upon the use of motor vehicles to access services, facilities, employment, etc. In terms of impact on landscape character, this proposal would result in the loss of a substantial and characterising green space within the conservation area for Tydd St Mary. The environmental benefits of this proposal are limited, however, the applicant does state that the proposal shall include plans to plant hedgerows and wildflower meadows within the remainder of the plot, which would clearly be a marked improvement over the bare grassland currently occupying the site. However, this plan is not detailed, nor reasoned and therefore, proposal fails to demonstrate how it would provide an environmental benefit that meets the sustainable development needs off the area, rather than solely the development site.

Beyond this, 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 needs of a settlement (see Policy 19: Rural Exceptions Sites)."

The application site comprises an undeveloped parcel of land that is not considered to meet the provisions of either of these policies. The proposal comprises the residential development of 2 properties, within land that is defined as being open countryside in policy terms; and is land that is undeveloped.

In light of the above, it is also clear that the proposal does not fall under the provisions of either Policies 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use), two policies which are also specifically referred to within Policy 1 of the SELLP.

Furthermore, under a previous refused application for a similar development on this site (H21-0340-17), the concerns about development outside of the defined settlement boundary were raised in the officer's report. Whilst the previous application was decided under the terms of a previous policy regime, it was at such a time that the current Local Plan (SELLP) was being written and as such the case officer was able to make reference to then upcoming policy which is now in force, stating:

"(It should be noted that the South East Lincolnshire Local Plan is currently under preparation and

that it aims to provide a 5 year supply of deliverable housing sites. The South East Lincolnshire Local Plan 2011-2036 (Publication Version - March 2017) defines Tydd St Mary as a "Minor Service Centre". The site falls outside the defined settlement limit. Moreover, it was identified in the South East Lincolnshire Housing Land Availability Assessment (July 2016) as an unsuitable site on character grounds. If permitted, it would encourage further applications of a similar nature, which would then be hard to resist, contrary to the aims and objectives of both the Framework and emerging local plan to ensure that new development is sustainable and protects the character and appearance of the area."

Additionally, a recent pre-application advice enquiry regarding this proposal was responded to with a negative response, which raised the concern of the principle of this development outside of the settlement boundary.

The Local Planning Authority can therefore only conclude that this proposal conflicts with Policy 1 of the SELLP and that the principle of residential development is not considered acceptable.

Layout, Design and Heritage Impact

Section 12 of the NPPF 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 of the NPPF 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 they 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, amongst other considerations.

Likewise, Policy 2 of the SELLP 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 NPPF, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortable with, and adds positively to, its historically designed or un-designed townscape or landscape surroundings. These policies accord with the provisions of the NPPF and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the qualities 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 an area is not compromised.

As this site is within the conservation area for Tydd St Mary, it is also important that the impacts upon the heritage value of the setting are considered.

Policy 2 of the SELLP confirms that sustainable development considerations must be met in relation to the "impact or enhancement for areas of natural habitats and historical buildings and heritage assets". Within the explanatory text this is expanded upon where it states *"proposals will need to protect, and where possible enhance the historic environment such as Conservation Areas, Listed Buildings and Scheduled Ancient Monuments (see Policy 29: The Historic Environment). Development proposals which are likely to have a detrimental impact upon areas of natural habitats and/or historical buildings and heritage assets shall not be permitted."*

Policy 29 (Historic Environment) later goes on to confirm that proposals within, affecting the setting of or affecting views into or out of a conservation area should preserve (and enhance or reinforce,

as appropriate) features that contribute positively to the area's character, appearance and setting should (amongst other considerations):

- Retain buildings/groups of buildings, existing street patterns, historic building lines and ground surfaces;
- Retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and plot widths of the existing built environment; and
- Assess, and mitigate against, any negative impact the proposal might have on the townscape, roofscape, skyline and landscape;

In accordance with Policies 2 and 29 of the SELLP, paragraph 203 within Section 16 (Conserving and enhancing the historic environment) of the NPPF confirms that when determining applications, local planning authorities should take account of:

- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
- the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
- the desirability of new development making a positive contribution to local character and distinctiveness.

Paragraph 205 of the NPPF categorises harm to heritage assets within 3 classes; substantial harm, total loss, or less than substantial harm. As confirmed by Paragraph 207 of the NPPF, Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:

- a) the nature of the heritage asset prevents all reasonable uses of the site; and
- b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
- c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
- d) the harm or loss is outweighed by the benefit of bringing the site back into use.

The proposed development is of 2 single two-storey dwellings with associated garages/outbuildings. The design of the houses themselves is somewhat attractive, featuring a traditional design utilising a 3 bay frontage and porches and appears to reflect the local vernacular and that of developments recently approved in the immediate setting, such as that under H21-0504-18. Furthermore, although proposed materials are not detailed, via condition it would be possible to ensure that all external materials (including fenestration and rainwater goods) would be appropriate to the setting and the value of the local heritage asset.

However, residential properties within the Tydd St Mary Conservation Area area have generally developed in a linear form along Common Way and Rectory Road with St Mary's Church being part of this and dominating the eastern end. The Area includes a range of dwelling types, including terraced, semi-detached and detached houses, plus bungalows. A number of residential properties date back to the 19th century, with a small proportion even older such as the nearby Tysdale Manor, which is grade II listed.

In contrast to many other built up settlements, the centre of Tydd St Mary has several areas of open space, including associated tree planting. These areas play an important role in and influence the character of the Conservation Area. The development of these areas, including the site, would have a negative impact upon the character, appearance of the Conservation Area and setting of Tysdale Manor, causing harm to their significance. This proposal, therefore, would fail to retain characteristic existing street patterns and historic building lines, retain and reinforce local distinctiveness with reference to massing and plot widths of the existing built environment and to mitigate against any harm the proposal may have upon the local townscape and landscape.

It is considered in this case that the resultant harm would be significant and as such, should be assessed under Paragraph 207 of the SELLP. There are no materially substantial enough public benefits to this private residential development and that none of points a-d (particularly point d) of Para. 207 of the SELLP are met, and as such the proposal should be default be refused and fails to meet the requirements of Policies 2 and 29 of the SELLP.

Furthermore, it should be noted that the LCC Historic Places team were consulted on this application and identified the high risk of significant archaeological potential for this site, and as such, requested that an archaeological scheme take place on this site, including trial trenches, prior to determination. Until such a time that this is provided, it is impossible for the Local Planning Authority to effectively assess the impact upon local archaeology, which could be substantial. Given the LPA's intention to refuse consent for this application for other reasons, it is considered that it would be unreasonable to expect the applicant to go to the additional expense of carrying out this major archaeological scheme. However, it should be noted that this report makes no attempt to assess the impact upon local archaeology that this proposal may have, which could represent a major material consideration.

Flood Risk

Section 14 of the NPPF 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 may be applied if appropriate.

The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding, given the extent of land detailed above. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology, it is possible to use the information to steer development towards the areas of lower flood risks as advised within Section 14 of the NPPF.

The site lies within Flood Zone 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.

Policy 4 of the SELLP 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, where:

1. It can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed). The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location. The sequential test is not required for sites allocated in the Local Plan, minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site)". With 'minor development' in this instance taking the definition outlined within the NPPF and National Planning Practice Guidance in relation to flood matters.

The PPG Flood Risk and Coastal Change categorises different types of uses and development according to their vulnerability to flood risk. The proposed development is covered by the description of buildings used for dwellings and is classified as 'More Vulnerable'. The PPG Flood Risk and Coastal Change sets out Flood Risk Vulnerability and flood zone 'compatibility'. The site is in Flood Zone 3 and the development is 'More Vulnerable' and so it is necessary to complete the exception test.

As referred to above, in short, the NPPF requires the application of a Sequential Test to ensure that new development is in areas with the lowest probability of flooding. The Exception Test is a method to demonstrate and help ensure that flood risk to people and property will be managed, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available.

The refined flood risk information contained within the SFRA demonstrates that the site is not at risk of flooding during the 1% fluvial event and 0.5% tidal event. The site therefore has a low probability of flooding and is considered to pass the Sequential Test

In any event, the Exception Test requires consideration of the wider sustainability benefits of a development and that the development would be safe and residual risks managed. A Flood Risk Assessment accompanies the application. This demonstrates that the proposed properties could be suitably protected against the risk of flooding. The Flood Risk Assessment describes the flood mitigation measures and the management of the residual risks, demonstrating that this development would be safe and not increase flood risk elsewhere.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed the proposal accords with Policies 2, 3 and 4 of the SELLP and the aims of the NPPF in this regard.

Impacts of Climate Change & Biodiversity

In respect of biodiversity, Policy 28 of the SELLP outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly green space will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposal shall provide and overall net gain in Biodiversity.

Section 14 of the NPPF states that new development should be planning 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'. Section 15 goes on to express that planning decisions should contribute to an enhance the natural and local environment by protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils, whilst minimising the impacts on and providing NET gains for biodiversity.

In this regard, it would be necessary for the development to appropriately demonstrate a biodiversity uplift. As this has not been adequately demonstrated, it is not possible to conclude on this aspect of the development. Notwithstanding this, it is considered that a suitably worded condition could be recommended to seek submission and approval of such detailing, in accordance with Policy 28 of the SELLP. Also, as the national requirement for a specific level of biodiversity uplift comes into effect shortly, an informative drawing attention to this would also be suggested, in an instance where approval were to be granted.

Taking the above into account, it is considered that given the details submitted and those that could be requested by a suitably worded condition, the proposal is acceptable in this regard. The proposal would therefore be in accordance with Policy 28 and 31 of the SELLP and Section 14 of the NPPF.

Residential Amenity

Both Policies 2 and 3 of the SELLP require that proposals are acceptable in respect of their impact upon local residential amenity.

In this instance, whilst the proposed properties are two storey in nature, the separation distances involved between both properties and the surrounding extant properties is such that what minor potential for overlooking or overshadowing is mitigated against such that the Local Planning Authority does not consider there to be any material risk presented to local residents by this proposal.

Highway Safety and Parking Provision]

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class. Two spaces for dwellings with 3 or less bedrooms should be provided within the curtilage. Three spaces for dwellings with 4 or more bedrooms should be provided within the curtilage.

The above policies are in accordance with advice within the NPPF. Paragraph 115 indicates 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.

The proposal site seeks vehicular access via common way, which is a sweeping road, with decent visibility from both directions. Lincolnshire County Council Highways Authority were consulted on this application and presented no concerns or objections to the impact of such a vehicular access

The proposed dwellings have large driveways with double garaged parking spaces in addition to a large turning area. This satisfactorily accords with Policy 36 of the SELLP.

Planning Balance

As detailed above, Section 38 (5) and its subsections of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023, requires for the purposes of any area in England, that the Local Planning Authority makes decisions in accordance with the adopted Development Plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

As outlined within the report above, the application site lies outside of the defined settlement boundaries of Tydd St Mary, as defined by Policy 1 of the SELLP. The application site is therefore countryside in planning terms. Development within the countryside is limited to that 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". Residential development within the open countryside, which does not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

The development proposed would provide some economic and social benefit in respect of the needs of the local area as detailed within the report above, including (but not limited to) through employment opportunities associated with construction of the development and through the future occupants who may work locally and support local services, in addition to a contribution towards housing supply (including affordable housing) in the district, which would provide nine affordable dwellings which is in excess of the 7 affordable houses required by Policy 18 of the South East Lincolnshire local Plan and as such provides a further material consideration in respect of the planning balance.

It is considered that these benefits, when considered in regard to the requirements of Policy 1 to demonstrate that a development meets the sustainable development needs of the area, have limited weight overall, given the clear policy conflict and lack of evidence that demonstrates a more acceptable location, in policy terms, cannot be developed. Furthermore, many of the benefits can be attributed to alternative development sites and are typical for residential development within most locations, such as providing employment during the construction phase.

Finally, the proposal - by eliminating a large and significant area of characterful greenspace from the Tydd St Mary conservation area would result in substantial harm to the Historic Environment and as such, should be assessed under Paragraph 207 of the SELLP. There are no materially substantial enough public benefits to this private residential development and that none of points a-d (particularly point d) of Para. 207 of the SELLP are met, and as such the proposal should be default be refused and fails to meet the requirements of Policies 2 and 29 of the SELLP.

Conclusion

For the reasons listed above, this application is considered to fail to meet the requirements of Policies 1, 2 and 29 of the SELLP. Therefore, the recommendation is to refuse.

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.