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## **TOWN AND COUNTRY PLANNING ACT 1990**

### **FULL**

|                     |                                                                                           |                          |                    |
|---------------------|-------------------------------------------------------------------------------------------|--------------------------|--------------------|
| <b>Reference:</b>   | H21-0936-23                                                                               | <b>Date of Decision:</b> | 12th February 2024 |
| <b>Applicant:</b>   | Mr & Mrs N Payne<br>Tysdale Bungalow<br>Common Way<br>Tydd St Mary<br>Wisbech<br>PE13 5QH |                          |                    |
| <b>Location:</b>    | Adj Tysdale Bungalow Common Way Tydd St Mary Wisbech                                      |                          |                    |
| <b>Description:</b> | Erection of two single dwellings and garages                                              |                          |                    |

**South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):**

- 1 The application site is located outside of the settlement boundary of Tydd St Mary as defined in the South East Lincolnshire Local Plan (March 2019) (SELLP). Policy 1 of the South East Lincolnshire Local Plan states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". As such, the site is classed as being in the 'Countryside' in planning policy terms.

Policy 1 states that development in the Countryside will only be permitted 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 benefit".

It has not been satisfactorily demonstrated that the proposed development is necessary to this location and it is not considered to comprise a development that requires a countryside location. This is particularly the case in this instance where the Council has a

development plan that was adopted in March 2019 with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply.

Therefore, the proposal is considered to be in conflict with Policy 1 of the South East Lincolnshire Local Plan. Paragraph 12 of the National Planning Policy Framework (December 2023) reiterates that "the presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted". There are not considered to be material planning considerations that would outweigh the clear conflict identified in this instance, which would otherwise indicate that the plan should not be followed.

- 2 The site is within Tydd St Mary Conservation Area. Residential properties within the 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. It is considered in this case that the resultant harm is not outweighed by public benefits, including the provision of additional housing within the district.

The proposal is therefore contrary to Policy 29 of the SELLP and Section 16 of the NPPF (December 2023). Local Plan Policy 29 indicates that development should not have an adverse effect on the character and appearance of the locality. Paragraph 205 of the Framework indicates that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. The more important the asset, the greater the weight should be. Significance can be lost through development within its setting. As heritage assets are irreplaceable, any harm should require clear and convincing justification.

#### Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

The determined plans are:

4188-23 01B

4188-23 02A

4188-23 03A

Application Form

ECL1135/G R MERCHANT LTD - Flood Risk Assessment

4188-23 - Design and Access Statement incorporating Heritage Impact Assessment

4188-23 - Personal Statement



**Phil Norman**

**Head of Planning**

**South Holland District Council**

## RIGHTS OF APPEAL

### Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

### Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

| 12 Weeks                                | 6 Months                          | 8 Weeks                    |
|-----------------------------------------|-----------------------------------|----------------------------|
| Householder Applications                | Planning Permission               | Consent to Display Adverts |
| Minor Commercial Development            | Listed Building Consent           |                            |
| Agricultural Determinations             | Other Prior Approval Applications |                            |
| Householder Prior Approval Applications |                                   |                            |

<https://www.gov.uk/appeal-householder-planning-decision>

<https://www.gov.uk/appeal-planning-decision>

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planning-inspectorate.gov.uk](mailto:inquiryappeals@planning-inspectorate.gov.uk)) at least 10 days before submitting the appeal. Further details are on GOV.UK.

### Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice OR the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

### **Purchase Notices**

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

### **Compensation**

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.