

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H21-1013-20 **Applicant:** Mr M Mallett
Proposal: Erection of 2 dwellings - re-submission of H21-0564-20.
Location: Land At Tysdale Farm Common Way Tydd St Mary
Terminal Date: 20th January 2021

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
29	The Historic Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 3, 4, 5, 9, 11, 12, 14, 15 and 16.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for 2 no. 4 bed detached dwellings served off a private roadway. It is a re-submission following previous refusals.

Site Description

The appeal site forms part of an area of grassland/orchard between a row of frontage terraced dwellings to the south-west and the grade II listed Tysdale Manor to the south-east. A range of single/two storey barns are located to the east and are currently being converted to 2 dwellings (ref. H21-0794-10). Two detached houses are currently construction along the frontage behind a row of mature trees (ref. H21-0504-18).

The site is within Tydd St Mary Conservation Area (CA).

Recent History

H21-0137-16 - Full - proposed new dwelling - Refused 2 June 2016.

H21-0306-17 - Full - Proposed development (7 dwellings), rear and adjacent Tysdale Farm, Common Way, Tydd St Mary - Refused 30 May 2017.

H21-0504-18 - Full - Erection of two detached houses - Granted 30 November 2018.

H21-1105-19 - Full - Erection of 3 dwellings - Refused 8 January 2020

H21-0564-20 - Full - Erection of 3 dwellings - re-submission of H21-1105-19 - Refused 6 October 2020.

Consultation Responses

Tydd St Mary Parish Council - Council object to this application as it falls within the conservation area and they have grave concerns over the concealed access to the site.

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

SHIDB - Request further drainage details. If the proposals involve the alteration of a watercourse, consent would be required under the Land Drainage Act 1991 (and Byelaw 4).

Environmental Protection - Request contaminated land condition.

LCC Archaeology - Request conditions.

Public - Resident comment received (summarised):
No objections subject to preservation of wildlife and trees.

Planning Considerations

The main issues are:

- Principle;
- The effect of the proposed development on the character and appearance of the area bearing in mind it would be within the Tydd St Mary Conservation Area and within the setting of the grade II listed Tysdale Manor;
- Residential amenity;
- Highway safety;
- Other material considerations such as flood risk, archaeology and ecology.

Principle

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 proposed development is inside Tydd St Mary Settlement Limit as defined within the South East Lincolnshire Local Plan, 2019. Policy 1 (Spatial Strategy) of the Local Plan indicates that within Minor Service Centres, including Tydd St Mary, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. Development will normally be limited to allocated and committed sites and infill. In this case the site is not allocated or frontage residential infill. However, it could be argued in this particular case that a development of this specific character constitutes infilling within the village fabric.

Character/Appearance

The site is within Tydd St Mary Conservation Area. It is also in proximity with Tysdale Manor, which is located to the south east fronting Common Way. The latter is a grade II listed building.

In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, section 66(1) of the same Act requires that special regard must be had to the desirability of preserving the setting of listed buildings. Moreover, paragraph 193 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

The Conservation Area (CA) is characterised by traditional buildings of a variety of sizes mainly positioned facing the road, with spaces between them. There is also mature planting in front gardens and between the buildings. The properties predominantly display traditional architectural details and are finished in complementary materials. The grade II listed Tysdale Manor is a substantial hall house with traditional architectural detailing positioned facing and close to the road.

The area generally has a traditional and verdant character and appearance. The significance of the CA and the listed buildings within it is derived from the architectural quality of the varied buildings which are spaciouly arranged along road frontages.

The current proposal would involve the erection of two detached single storey dwellings at the rear of two detached frontage houses approved by virtue of planning permission ref. H21-0504-18. The properties have been designed to reflect traditional agricultural barns in an individual crew yard arrangement. They incorporate traditional architectural features such as brick detailing, segmental arches, timber joinery, timber cladding, etc.

The proposed development would be subservient to existing dwellings fronting the site in terms of height and would reflect the agricultural character/appearance of existing buildings set back from Common Way, such as the converted barns to the east. It is considered that the latest scheme would not harm the existing character/appearance of Tydd St Mary Conservation Area or the setting and significance of the grade II listed Tysdale Manor fronting Common Way to the south east.

Thus, the proposal would be in accordance with the provisions of the respective sections of the Act and would accord with paragraph 193 of the Framework, which attaches great weight to the conservation of designated heritage assets. It would also accord with Policies 2 and 3 of the South

East Lincolnshire Local Plan, 2019 which among other things seeks to achieve good design and ensure that new development reflects the historic pattern of development in the locality.

Amenity

The nearest residential properties include the two frontage houses presently under construction to the south and No. 1 Common Way, which forms part of a terrace to the south-west. The properties are single storey. It is considered that neighbouring residents would not be materially harmed in terms of overlooking, lack of privacy, overshadowing, overbearing effect, etc, subject to appropriate boundary screening.

It is accepted that there would be some additional noise and disturbance generated by additional vehicles and general activity within rear gardens, etc, as well as constructional work. However, the latter would be temporary. It is considered that there is not sufficient reason to refuse the application on the grounds of noise and disturbance.

The proposal therefore satisfactorily complies with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan in this respect.

Highway Safety

Vehicular access to the proposed development would be via a private roadway that also serves 2 barn conversions immediately to the east.

Concerns have been raised by Tydd St Mary Parish Council on highway grounds and especially visibility at the entrance. However, the County Highways Authority has been consulted and does not wish to restrict the grant of permission on highway safety grounds. Each property would have at least 3 car parking spaces in addition to the garages.

The proposal therefore satisfactorily complies with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan in terms of highway safety/parking requirements.

Flood Risk

The site falls within Flood Zone 3 (High Probability) within the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

The Environment Agency's Flood Maps 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. 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

Part of the site has been identified as "Danger for Some" within the Strategic Flood Risk Assessment, which takes into account existing flood defences. However, the site is within Tydd St Mary Settlement Limit as defined within the SELLP, 2019. It is considered that the current proposal would provide wider sustainability benefits to the community that outweigh flood risk.

In terms of part 2 of the exceptions test, it is recommended that finished floor levels be raised 300mm above existing ground level, with safe refuge within the roof.

The proposal is therefore in accordance with advice within paragraphs 155 to 161 of the National Planning Policy Framework, 2019.

Archaeology

The proposed development is located in an undeveloped area close to the historic core of the medieval village of Tydd St Mary and close to the village's Tudor manor house. LCC Archaeology is therefore of the opinion that it is within an area where medieval and later remains may be

expected to survive. Consequently, there is a high potential for archaeological remains to be disturbed during construction. LCC Archaeology has therefore requested that a scheme of archaeological works be carried out.

Ecology

A number of smaller, mainly fruit trees, would be removed to accommodate the development. They are not of particular merit and there is not sufficient reason to insist upon their retention. Additional planting is proposed.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is within Tydd St Mary Settlement Limit as defined in the South East Lincolnshire Local Plan, 2019. It is considered that the latest proposal, which is based upon the concept of traditional agricultural barns would not harm the character/appearance of Tydd St Mary Conservation Area or the setting of Tysdale Manor, which is grade II listed. LCC Highways has raised no objections to the scheme on highway safety grounds.

The proposal therefore satisfactorily complies with Policies 1, 2, 3, 4, 28, 29, 30 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF), 2019. There are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the proposal and the policies referred to above.

Conclusion

The planning balance lies in favour of the proposal.

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.

Recommendation

That the application be approved under delegated powers, subject to conditions.