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# TOWN AND COUNTRY PLANNING ACT 1990

## FULL

**Reference:** H21-1105-19 **Date of Decision:** 8th January 2020

**Applicant:** Mr M Mallett
C / O Swann Edwards Architecture Ltd
Black Barn, Fen Road
Guyhirn
Wisbech Cambs
PE13 4AA

**Location:** Land At Tysdale Farm Common Way Tydd St Mary Wisbech

**Description:** Erection of 3 dwellings

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

1 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The proposed development is inside Tydd St Mary Settlement Boundary 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 infill.

Moreover, the site is within Tydd St Mary Conservation Area. It also adjoins Tysdale Manor, which 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 National Planning Policy Framework (2019) 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.

Tydd St Mary 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. It is considered that the area 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 spaciously arranged along road frontages.

The proposal would involve the erection of three large closely spaced detached properties at the rear of two detached frontage houses. Notwithstanding their design, which is loosely based on 19th century properties, the properties would be set back from Common Way. They would therefore be at odds with the prevailing frontage pattern of development in the area.

For these reasons it is considered that the proposal would appear cramped and at odds with the spacious and frontage pattern of development in the area, thereby harming the significance of the CA and failing to preserve its character or appearance. For the same reasons it would also harm the setting and significance of the grade II listed Tysdale Manor.

The proposal would therefore be contrary to the provisions of the respective sections of the Planning Act and would fail to accord with paragraph 193 of the Framework, which attaches great weight to the conservation of designated heritage assets. It would also be in conflict with Policies 1, 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 which among other things seek to achieve sustainable development and ensure that new development reflects the historic pattern of development in the locality.

2 The site falls within Flood Zone 3a (High Probability) within the Environment Agency's Flood Maps. Part of it is identified as "Danger for Some" within the South East Lincolnshire Strategic Flood Risk Assessment (2017), which is used as a basis to apply the sequential test in terms of flood risk. There are alternative sites appropriate for the proposed development that are reasonably available, more sustainable and which are located in areas with a lower risk of flooding. Moreover, the proposal fails the exceptions test because the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal therefore conflicts with advice within paragraphs 155 to 161 of the National Planning Policy Framework, 2019.

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:
6574-1;
SE-1327-PP-1000A;
SE-1327-PP-1100;
SE-1327-PP-1101;
Design and Access Statement (Job no. SE-1327) dated October 2019;
Heritage Statement (Job no. SE-1327) dated October 2019;
Flood Risk Assessment by Geoff Beel Consultancy (Ref. GCB/Swann Edwards) dated October 2019.



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

# 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 | | |

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) 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.