SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 19 July 2023**

(Author: **Maxine Simmons - Planning Officer)**

Purpose: **To consider Planning Application H23-0197-23**

Application Number:	H23-0197-23	**Date Received:**	28 February 2023
Application Type:	FULL		
Description:	Residential Development - 1 Dwelling		
Location:	Land adj Miki-Lea Manor Oxcroft Bank Moulton Chapel		
Applicant:	Mr J Cook	**Agent:**	Cadworx Ltd
Ward:	Whaplode and Holbeach St Johns	**Ward Councillors:**	Cllr A C Beal Cllr P A Redgate

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H23-0197-23

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The proposal is contrary to policy due to its location.

2.0 PROPOSAL

2.1 Full planning permission is sought for residential development of 1 dwelling on land currently occupied by a haulage yard with ancillary buildings.

2.2 The proposal is for a 1 x 4 bedroom house, incorporating first floor rooms in the roof, plus the retention of a separate garage as an annex to the main dwelling. Access to the site is off Randell Bank, a narrow agricultural drove road.

2.3 The Council is asked to consider the betterment proposed by this proposal with the relocation of the haulage yard which is detailed later on in this report.

3.0 SITE DESCRIPTION

3.1 The site comprises a triangular piece of land enclosed by trees, hedges and fencing and hard surfaced. There are two buildings on the site - an office building with an L shaped footprint measuring 26m x 17m overall and a stable building with a footprint measuring 14.5m x 6.5m. There are also a number of smaller outbuildings.

3.2 In and around 2002 the applicant built a garage on the site which was used as a garage/workshop until 2010. In 2010 the applicant confirmed that due to accommodation pressures the garage was turned into living accommodation, with a kitchen, living room, bathroom and bedroom created. Its use has been ancillary to the host dwelling and not

separate. Its occupants have been visiting family and friends and the services, such as gas and electric are connected to and solely reliant on the host dwelling. As part of the current proposals the applicant wishes to turn this back to a garage/workshop to the main dwelling, as described above.

3.3 The site is currently used as a haulage yard and there are numerous HGV tractors, trailers and other vehicles parked on site along with pallets, storage and piles of materials. An aerial photo (Google Earth 2023) shows the presence of 2 no. HGV Tractors/Trailers plus 3 flat bed trucks and other vehicles parked on site.

3.4 There is an existing residential dwelling - Miki-Lea Manor - on land immediately to the south of the haulage yard (which is shown edged in blue on the submitted site location plan).

3.5 The overall site results in a very generous plot of land, which, even with its development of a separate additional plot, leaves spacious amount of amenity land to accompany the original dwelling and the new dwelling.

3.6 Open fields surround the site on all sides and the location has a distinctly rural character. There are a limited number of existing dwellings to the west on the opposite side of Oxcroft Bank, some 300m distant. The general character of the area is its rural nature with isolated dwellings or small clusters of development.

3.7 The Site sits within a mix of Flood zone 2 and 3, however the built form falls firmly within Flood zone 2.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

01 - Spatial Strategy

02 - Development Management

03 - Design of New Development

04 - Approach to Flood Risk

05 - Meeting Physical Infrastructure and Service Needs

10 - Meeting Assessed Housing Requirements

11 - Distribution of New Housing

28 - The Natural Environment

36 - Vehicle and Cycle Parking

Appendix 6 - Parking Standards

4.2 If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 5 Delivering a sufficient supply of homes

Section 6 Building a strong, competitive economy

Section 11 Making effective use of land

Section 12 Achieving well designed places

Section 14 Meeting the challenge of climate change, flooding and coastal change

Section 15 Conserving and enhancing the natural environment.

4.3 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H23-1136-05 - Proposed conversion of detached garage to fully self-contained unit - withdrawn 14/09/05

H23-1300-04 - Proposed detached triple garage with storage area above - approved 22/11/04

H23-1252-03 - Change of use of domestic land and outbuildings - approved 02/07/04

H23-0693-01 - Proposed single storey extensions to dwelling - approved 30/07/01

H23-1047-99 - Extension to existing bungalow and erection of triple garage - approved 15/12/99

6.0 REPRESENTATIONS

6.1 LCC Highways and Lead Local Flood Authority

No objection. In highway terms, the change from a haulage operating centre to a single dwelling, as proposed in this Application, can only bring about betterment. Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and so does not wish to object to this planning application.

6.2 Internal Drainage Board

Surface Water

The applicant has indicated that they intend to dispose of surface water via infiltration. The viability of this proposal has not been evidenced. Ground investigation is recommended to be carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 to see if onsite material is favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy the IDB expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that the IDB recommends that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate

6.3 *Byelaw 3 (Treated Foul Water)*

The applicant intends to treat foul waste using a package treatment plant. No details of disposal of treated foul water from this development have been provided. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

6.4 *Section 23, Land Drainage Act 1991*

There are watercourses which are not maintained by the Board (riparian watercourses) adjacent to the northern and western site boundaries. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the

Land Drainage Act 1991 (and byelaw 4).

6.5 *Byelaw 10*

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

6.6 Environment Agency

The application site is in Flood Zone 2 of our Flood Map for Planning and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. The proposal is therefore covered by our national flood risk standing advice and it was not necessary to consult us. Please view the advice on our website at https://www.gov.uk/guidance/flood-risk-assessment-local-planning authorities#flood-zone-2 before determining the application.

6.7 LCC Historic Environment Officer

The proposed development is situated within an area identified in the Lincolnshire Historic Environment Record as containing cropmarks that form part of an extensive probably late Iron Age or Roman landscape, with a particularly dense concentration of small enclosures in this area within a wider mesh linear features extending in all directions. Development on this site therefore has the potential to have an impact on any surviving below ground archaeological remains.

Therefore given this it is recommended that the developer should be required to commission a Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook). This should be secured by South Holland District Council's standard conditions AR01, 02 and 03.

"The local planning authority should .... require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part), in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publically accessible"

National Planning Policy Framework, section 16, paragraph 205. Initially, I envisage that this would involve monitoring of all groundworks, with the ability to stop and fully record archaeological features.

6.8 Public

No comments received.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Principle

7.3 Policy 1 of the SELLP states that "in the countryside, development will 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". Policy 1 sets out the settlement hierarchy of the district identifying where development is to be directed. The sub-regional centres are the most sustainable locations, followed by main service centres. Development is permitted within settlement boundaries, but not generally outside of them.

7.4 The site is outside a settlement boundary as defined in the SELLP. Therefore, the site is located within an unsustainable location in the countryside. It is not adjacent or near to a settlement boundary and would be car dependent because public transport services are limited. A countryside location is at the bottom of the settlement hierarchy in terms of directing development to the most sustainable locations.

7.5 The supporting text to Policy 1 recognises in paragraph 3.2.15 that the Countryside of South East Lincolnshire is a "precious resource" reflective of paragraph 174 b) of the NPPF which recognises the intrinsic value of the countryside. The supporting text also clarifies when and what types of development are acceptable in the countryside, with agriculture and recreation being key uses. It explains in 3.2.17 that some housing "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 settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The application does not meet the provisions of either of these policies. It also does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).

7.6 Paragraph 80 of the National Planning Policy Framework 2021 makes provision for new 'isolated' dwellings in the countryside in limited circumstances. However, given case law on the interpretation of the term 'isolated', it is not considered Paragraph 80 applies in this instance because the site adjoins an existing bungalow, therefore it cannot be described as remote or 'isolated' in the sense of paragraph 80.

7.7 Returning to the provisions of Policy 1 of the SELLP, the following points have been considered:

(a) It has not been demonstrated that the proposed dwelling is necessary to this location (the Council has a 5 year housing land supply) and, notwithstanding this, it is not considered to be a development type that requires a countryside location (e.g. agricultural workers dwellings).

(b) In terms of the 3 dimensions of sustainable development referenced in the policy wording, the below points are considered pertinent:

7.8 *An Economic role*:
The development may support the local economy through transient employment opportunities associated with construction (albeit this is temporary). Future occupants may support more local services by increased economic spend and therefore contribute to the local economy (albeit by car). The proposals therefore have some limited economic benefits.

7.9 *A Social Role*:
The proposal would make a small contribution towards housing supply in the district albeit in an unsustainable location to the settlement hierarchy. A garden is envisaged as part of the proposals which will contribute to health and well-being of its occupants. The proposals therefore have some limited social benefits. There are other factors in this case which are discussed below.

7.10 *An Environmental Role*:
The proposal would be situated in a countryside location, outside the settlement boundary which weighs significantly against the proposal in environmental terms. The occupier would have a demonstrable greater reliance on the car to access services, facilities, employment. Its position in the overall settlement hierarchy means it is in the least sustainable location being in the countryside and would be harmful as a result. In terms of impact on landscape character, there are certain factors about this case that renders this element of the policy consideration somewhat neutral - namely that removing a non conforming use has some benefits on the character of the countryside in visual terms. In sustainability terms, removing a B8 use and replacing it with a dwelling also is neutral as the use would be less remote from the highway network. However, overall, the demonstrable harm in relation to the location of the proposed development outside of the settlement boundary in an unsustainable location is considered to be harmful in its environmental role, particularly given the fact that the Council has a 5 year supply of housing, meaning that the tilted balance is not engaged at the present time. This harm significantly and demonstrably outweighs the more minor economic and social benefits when considering the policy as a whole.

7.11 The function of boundaries are to delineate the difference between geographical areas according to their role in the settlement hierarchy, preventing incremental unsustainable development. There are times when relaxing development outside of settlement boundaries is necessary, such as when the Council does not have a 5 years supply, but the Council are not currently in this position. The conflict with the up to date development plan is clear and should carry significant weight in the overall planning decision, particularly as the tilted balance is not engaged. The proposal is contrary to Policy 1 of the SELLP.

7.12 Betterment - Removing Haulage Business

7.13 Betterment refers to a planning term which in this case means making something better as a result of granting planning permission, compared with the existing situation. In this case, the site is a haulage yard in a remote, isolated location. The aim of the proposal is to remove this use and replace it with a dwelling, and change the informal garage back to a garage linked with the proposed new dwelling.

7.14 The applicant respectfully asks the Council to consider the merits of this case as a special consideration, the main benefit of which being the 'trade-off' of removing the high impact haulage yard in this location and replacing with a family home. They consider this results in a development which meets the needs of the area in terms of economic, community and environmental benefits.

7.15 The large expanse of land to the front of the dwelling has been used as the applicant's haulage yard for at least 12 years. At one point during his operations, up to 30 lorries were located on site. Whilst the operation has reduced more recently, there are still an average of 4-5 large van movements per day, frequent car movements of employees and an average of 4 large HGV movements per day. The lorries still running from the site have a heavy impact on the local road network. The roads around Oxcroft Bank and the locality are typically narrow, with soft verges and often dramatic bends. Lorries of this size, using the highway network frequently cause damage to the soft verges, which often leads to conflict with other road users due to the narrowness of the road.

7.16 Site photographs demonstrate the yard is not visually attractive, with the arrangement of the existing buildings, vehicles and largely dirt covered hard surfacing devoid of any vegetation. The current use of this site is visible in the open countryside and this does have a visual impact on the local highway network in addition to the disruption cited above. The applicant stresses that there is an impact on the amenity of those living along 9 Oxcroft Bank. Whilst the site is screened from many public views, when entering the site it gives the appearance of a commercial operation with the family dwelling fading into the background. Removal of the vehicles would be beneficial in visual terms.

7.17 The applicant, if successful, would relocate the haulage yard to a purpose built yard which is locationally more suitable to the highway network. Examples of possible locations are either Tyrells yard in Low Fulney or Caspirarno yard in Stephenson Avenue in Spalding. Should permission be forthcoming a condition or legal agreement can ensure that the haulage use ceases to allow for the development of the new dwelling, and to ensure the site is otherwise cleaned up visually with open storage associated with the haulage use removed.

7.18 The proposal would enable the haulage yard to be moved to a more suitable site therefore removing the impacts of heavy HGV's from this rural and highway sensitive location; both operationally and visually. On this basis the applicant considers the betterment is considered to support the proposal, together with the detailed design being a complementary addition to the site, replacing an unattractive and discordant feature in the countryside which is more appropriate in terms of harmonising to the character and setting of Oxcroft and the surrounding area.

7.19 Personal Circumstances

7.20 Although generally not considered to be material planning considerations, the applicant's personal circumstances are particularly poignant, and it will give the Council some background to what motivates this application.

7.21 The applicant's bungalow on site is extremely generous, providing 6 bedrooms and a very large living room. With the onset of time and some of their children leaving home, they now need to downsize to a more manageable dwelling with only 4 bedrooms for the family which includes bedrooms for visiting children and grandchildren. The option of leaving the site and finding a more suitable dwelling in the locality is not an option for the family as personal circumstances tie them to this site. A few years ago the applicant and his wife tragically lost their daughter in a car accident. Part of the families grieving process was to create a memorial for their daughter which consists of a small wooden open fronted shelter which is filled with memorabilia,

keepsakes and flowers which help the family remember their daughter. It is a place where the family can go on a daily basis and forms a very important part of their daily lives. The memorial falls in a small section of the blue edged land, however if successful with this application that section of land will be separated from the host dwellings title and added to the title of the new dwelling. The applicants have taken legal advice on this point and this action is only conducive if the planning application is successful, therefore at this point in time the memorial remains in the blue edge.

7.22 The Council is respectfully asked by the applicant to consider the rather complicated circumstances of this case and to weigh up the fundamental benefits of this proposal which would lead to a notable betterment in this countryside location and points out that in relative terms there is a lack of harm.

7.23 Scale and Design

7.24 Policy 2 of the SELLP states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to, amongst other things, size, scale, layout, density, impact on amenity, character and appearance of the area and the relationship and impact on existing development and neighbouring land uses, the quality of design, access and vehicle generation level and visual intrusion.

7.25 The design of the dwelling is of a pleasing modern design, with first floor dormers, a front projecting gable in cladding. The proposal would be an improvement to the yard in design terms (providing the use is removed). A condition could be added requiring details of the materials should permission be forthcoming. The dwelling is not near residential properties, and as a result the proposal does not conflict with Policy 2 of the SELLP.

7.26 Impact on Neighbouring Amenity

7.27 Policy 3 of the SELLP requires all development to create distinctive places, with inclusive design and layout, be sensitive to the landscape character, and take into account residential amenity. The nearest property is remote from the site, as a result the dwelling would not adversely affect neighbouring properties. There is no conflict with Policy 3 of the SELLP.

7.28 Flood Risk and Drainage

7.29 Policy 4 of the SELLP relates to the approach to flood risk and details how development proposals will be determined, including sequential testing and other relevant considerations. Paragraph 159 of the NPPF 2021 states that:
"Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere."

7.30 The site falls within Flood Zone 2 of the Environment Agency flood maps. Large parts of the region are within Flood Zone 3, therefore, the location for the proposed dwelling is within an area of lower risk so is sequentially preferable in flood risk terms. The proposed development would be classed as 'more vulnerable' to flood risk but located on land in Flood Zone 2, therefore, the Exception Test is not required. The South East Lincolnshire SFRA states that the majority of the Boston Borough area and large parts of the South Holland District lie within Flood Zone 3. For this reason, it is necessary to use the refined flood risk information (Hazard and Depth maps) to assist with the application of a Sequential Test. The proposed site does not fall within any hazard areas within the SFRA maps.

7.31 It is not considered that the proposal conflicts with policy 4 of the SELLP.

7.32 Foul and Surface Water Drainage

7.33 Surface water is to be disposed of by soakaway. Whilst the IDB notes that infiltration testing has

not been undertaken, this could be required by condition should permission be otherwise forthcoming.

7.34 Foul sewage would be disposed of by package treatment plant and not into a watercourse. It is considered that these details are satisfactory.

7.35 Highway Safety

7.36 Policy 36 of the SELLP states that all new development should provide vehicle and cycle parking in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (Appendix 6).

7.37 The proposals include converting an existing building on site to a garage, and the site has a forecourt that can accommodate car parking and cycle parking. If desired, a condition requiring a cycle parking rack could be included should permission be otherwise acceptable.

7.38 In highway terms, the change from a haulage operating centre to a single dwelling is beneficial. The Local Highway Authority has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network, and raises no objections.

7.39 The proposal does not conflict with policy 36 or Appendix 6 of the SELLP.

7.40 The Historic Environment

7.41 Policy 29 relates to the historic environment. The proposed development is situated within an area identified in the Lincolnshire Historic Environment Record as containing cropmarks that form part of an extensive probably late Iron Age or Roman landscape, with a particularly dense concentration of small enclosures in this area within a wider mesh linear features extending in all directions. Development on this site therefore has the potential to have an impact on any surviving below ground archaeological remains. Should the proposal be otherwise acceptable, this issue could be resolved by the imposition of a standard condition recording the significance of any heritage assets to be lost (wholly or in part). As a result it is not considered that the proposal is contrary to policy 29 of the SELLP.

7.42 Biodiversity

7.43 Section 15 of the National Planning Policy Framework (NPPF) seeks to protect sites of biodiversity value, minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and assess proposals directly or indirectly affecting these assets by assessing if the benefits of the proposal would outweigh the adverse impacts on the site and wider network of natural habitats.

7.44 Introducing a garden to the site would benefit biodiversity in comparison with the existing situation and should permission be forthcoming a condition could be added to include a landscaping scheme that benefits biodiversity, with native planting. Swift boxes, bat or owl boxes or other similar biodiversity benefits could also be added to the building by condition.

7.45 The proposals are not in conflict with Policy 28 of the SELLP.

7.46 Planning Balance

7.47 If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires that the determination must be made in accordance with the plan unless material considerations indicate otherwise. What this means is, decisions should be in accordance with policy unless there are material reasons for departing from that policy.

7.48 The proposal is unsustainable development and considered contrary to policy in principle. The difficulty with allowing this proposal is that there are a great many number of isolated farmsteads, dwellings and clusters of buildings within the district with non conforming uses on them, or have circumstances which may be used to justify isolated dwellings which are also contrary to policy. Whilst each case is dealt with on its own merits, there is a danger of an informal precedent being set if enough isolated dwellings are allowed cumulatively, undermining the policy in the longer term and more generally. The reason why Policy 1 is so strong is because it is fundamentally arranged along sustainability lines, directing development towards the most sustainable locations inside settlement boundaries, with the settlements themselves arranged according to a sustainable hierarchy with the most sustainable locations at the top of that hierarchy, and countryside at the bottom of it, being the least sustainable and car dependent. The proposal will result in a car dependent, isolated dwelling, albeit having the existing bungalow next to it.

7.49 However, the applicants wish to seek an exception to Policy 1 to allow development in the countryside, because the case has an existing haulage use on site that is lawful. Removing this business could be seen as "betterment", meaning the site will be improved, both in visual terms, by replacing the yard with a landscaped garden, and in sustainability terms as the vehicle movements of one house, compared with numerous vehicles movements associated with the haulage business, will be less. The haulage business is to be moved to a more sustainable location in addition. The other reason for allowing the development is for personal reasons as a result of the memorial being located on site for their daughter who was tragically killed, although this is not generally considered a direct material consideration. A key issue in this case is whether or not Committee accept that the proposed dwelling is acceptable in the countryside as an exception to adopted policy due to the circumstances of this case.

7.50 Given that this is a finely balanced case it is necessary to carry out a balancing exercise as to the pros and cons of the proposal.

7.51 There would be minor economic benefits to the proposal in terms of short term employment by the building of the house and establishment of the garden, and economic spend from the occupant. This is a minor economic benefit.

7.52 In social terms the dwelling will contribute marginally to the housing stock of the district. This weighs in favour of the proposal but is minor. Albeit unconventional, the fact that the site has a memorial to a lost family member and the applicant wishes to stay on the site as a result to be close to the memorial is a social benefit for the family, but not a public benefit per se.

7.53 The main balancing exercise of the scheme relates to the environmental benefits of the proposal which are mixed in terms of the immediate design, visual and biodiversity benefits of removing a non conforming use of a haulage business on the one hand, and the location of a dwelling in an unsustainable location on the other.

In principle, the development is contrary to Policy 1 of the SELLP because the use is within a countryside location, outside of settlement boundaries, and is therefore unsustainable and would be car dependent. The countryside is the bottom of the settlement hierarchy and therefore the sustainability hierarchy with policies directing development to the most sustainable locations. There have been no objections from neighbouring occupiers however, and the site is not close to its neighbours, so there is no significant harm to amenity.

Paragraph 174 (b) of the NPPF recognises the countryside has intrinsic value; planning decisions should contribute to and enhance the natural and local environment. The removal of the haulage yard and replacement with a dwelling with a landscaped garden would indeed enhance the immediate locality and environment, as long as measures to secure the entire removal of the non conforming use is undertaken so that the use is removed in its entirety, together with removing associated storage/waste material. The agent has offered to facilitate this with a legal agreement which could be undertaken should Committee see fit to approve this application. There would be no visual harm as a result of the proposals, and it would remove a long standing, lawful, non conforming use. These factors weighs in favour of the proposal. In addition, the proposal would not result in detrimental flooding impacts or have a detrimental impact on highway safety, and these matters could be dealt with via suitable planning conditions. The design of the dwelling and landscaping is also considered acceptable and could be designed to create biodiversity benefits, such as, by adding swift bricks and encouraging

native planting in the landscaping scheme.

7.54 However, the proposal is located in the countryside which weighs against the proposal in sustainability and policy terms. There are other locations which have circumstances where the approval of this scheme could be cited as justification for allowing other isolated locations having dwellings proposed on them. It is more difficult to justify a policy if it is breached on numerous occasions, despite the fact the each case is dealt with on its own merits. This is a very finely balanced case, and whilst there are environmental benefits to the proposal, it is suggested that the negative environmental locational factors weigh very slightly against the positive environmental factors in the balancing exercise.

7.55 Taking the above into account, on this finely balanced case, the proposal is considered to marginally conflict with Policy 1 of the SELLP and Paragraph 174(b) of the NPPF, and is recommended for refusal.

7.56 **Additional Considerations**

7.57 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.

7.58 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.

8.0 RECOMMENDATIONS

8.1 Refuse planning permission for the reasons set out in Section 9.0 of this report.

9.0 REASONS FOR REFUSAL

1. The proposed development, by reason of its countryside location, would be a car dependent development within an unsustainable location, contrary to Policy 1 of the South-East Lincolnshire Local Plan and paragraph 174 (b) of the NPPF, which seek to protect the intrinsic character and beauty of the countryside by restricting development and directing it to defined settlements in accordance with the spatial strategy and sustainable development hierarchy. In this case it has not been satisfactorily demonstrated that the proposal meets the sustainable development needs of the locality in terms of economic, community or environmental benefits in accordance with Policy 1 of the SELLP.

2. The determined plans are:

   Application Form
   CWX1024-101B
   CWX1024-101A
   Flood Risk Assessment dated February 2023
   Design and Access Statement dated February 2023

3. 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. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, 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

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Background papers:- Planning Application Working File

Lead Contact Officer

Name and Post: Mark Simmonds; Development Manager(Interim)
Telephone Number: 01775 764444
Email mark.simmonds@sholland.gov.uk

Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



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MAP SCALE 1:1250
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