

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0264-24 **Applicant:** Mr & Mrs S Steward

Proposal: Change of use of land to domestic and creation of family games room, siting of containers for domestic storage including security camera and fencing (retrospective)

Location: Springway Stockwell Gate Whaplode

Terminal Date: 11th June 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
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed & beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

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
RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	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	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application to retain the change of use of land to form domestic curtilage and the retention of a family games room and storage buildings of which there are 3 (shipping containers). Also included is a CCTV camera and high boundary fencing. This is currently functioning in breach of planning.

The application site is currently divided from the curtilage of Springway itself by an access drive that serves this application site, a proposal to erect a dwelling as well as the builders yard which is operating in breach. The access is laid to gravel and is secured by a gated access, the gates are set back from Stockwell Gate.

This application went before Chairman's panel on 31st May 2024, where members supported a delegated approval subject to planning conditions restricting the application site and any buildings located within it for domestic purposes associated with Springway.

Site Description

The application site is located outside the defined settlement for Whaplode and located within the open countryside for planning purposes. The application site is also located within flood zone 3 in accordance with the Environment Agencies Mapping System. The flood hazard and depth maps show that the site is located in an area at low risk of flooding.

At present there are a number of planning breaches occurring across the site, this site being one of them. The other breach is the builders yard located to the west. The application site is served by an access, the same access that is currently being used for the builders yard.

History

H23-0177-15 - First floor extension above existing bungalow. Approved 15-04-15

H23-0905-23 - Proposed dwelling with garage, swimming pool and storage building. Refused 15-11-23

H23-0402-21 - Demolition of dwelling and erection of 2 houses. Approved 07-07-21

H23-0722-23 - Extension & Alterations - Resubmission of H23-0278-23. Approved 04-10-23.

H23-0259-24 - Erection of Salon - Retrospective. Approved 17.05.24

H23-0267-24 - Erection of dwelling, garage and swimming pool - Re-submission of H23-0905-23. Pending

Consultation Responses

The responses received from consultees during the initial consultation exercises can be

summarised as follows:

Internal Drainage Board

As regards surface water disposal the consultee states:

I cannot see that the applicant has identified a drainage strategy for the new impermeable area within their application, however, if there is an existing formal drainage system, I acknowledge that the new building's surface water will likely be disposed of via this existing system. For the avoidance of doubt, we recommend that the applicant provides a drainage strategy for the site.

As regards foul water treatment the consultee states:

I note that the applicant intends to dispose of foul water to a main sewer. Whilst unlikely, should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Highways & SuDs

The application is for the change of use of land to domestic and erection of family games room, including security camera (retrospective). The location of the family room is well away from the public highway therefore we have no comment to raise. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Environmental Protection

No comments.

Historic Environment Officer

Having reviewed the application documents and the available Historic Environment information, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application

Parish Council

Support as long as there is no infringement of neighbours light and privacy.

Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, three letters of representation have been received.

These can be summarised as the following material points:

- Outside development boundary
- Residential amenity impacts
- Character impacts
- Noise/disturbance through the intensification of the use of the site
- Light Pollution
- Invasion of Privacy

Planning Considerations

Determining Development Proposals (Legislative and Policy Framework)

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

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 for the proposal subject to this advice, are detailed above. The policies and provisions set out in the National Planning Policy Framework (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The following issues are relevant to this assessment:

- Principle of Development
- Flood Risk and Drainage
- Character and Landscape
- Amenity
- Highways Safety

Principle of Development

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 until 2036. Policy 1 (Spatial Strategy) expresses the 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.

The application site is located within the open countryside in accordance with Proposal Map (Inset 27 Whaplode) of the South East Lincolnshire Local Plan 2011 - 2036. Policy 1 'D' (Spatial Strategy) of the South East Lincolnshire Local Plan is concerned with development within the open countryside, it states:

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. 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 benefit.

The application site is located within the open countryside and as confirmed there are sufficient deliverable housing sites in South Holland District to meet requirements, with an excess of 5 years supply demonstrated.

Material Considerations

NPPF Paragraph 47 states that "Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing"

Part of the application site has previously been approved as domestic curtilage under H23-0402-21. This application was considered under the existing local policy framework. This permission is extant and does have some material weight.

The proposal therefore which is for the extension of residential curtilage is considered unacceptable in a strict principle sense, however weight is given to the sites planning history and that part of the application site was previously considered appropriate to form residential curtilage.

On this basis it is considered that material considerations do exist that would potentially justify a departure from the plan, subject to further assessment against the sustainable objectives of the SELLP.

Flood Risk & Drainage

Policy 4 sets out South Holland's approach to Flood Risk. The application site is located within flood zone 3 in accordance with the Environment Agency Mapping systems. A review of the hazard mapping and depth mapping that are derived from the SFRA show that the application site is located within an area that has a low risk of flooding.

The proposals would include only minor (in flooding terms) footprint of development and therefore EA standing advice is applicable. There would be no reasonable requirement to request any surface water drainage information.

On the basis of flood risk the proposal is acceptable.

Design, Character & Appearance

Paragraph 180 (of section 15) seeks to conserve and enhance the Natural Environment. Paragraph 'b' states that (proposals should contribute to and enhance the natural and local environment by) "recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;" Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable".

The structures on site are low in scale and therefore would not carry a wider impact upon the area. The eastern boundary (rear of existing dwellings) has been raised to 2.7m-3m and this completely screens the structures at ground. However, they can be seen from first floor openings. The impacts therefore are localised and whilst having some detrimental impact upon neighbouring properties the effect is not at a level to warrant refusal on character grounds.

On this basis it is considered that the proposal would not accord with SELLP Policies 2 and 3.

Residential Amenity

Paragraph 135f of the National Planning Policy Framework (December 2023) states that development should 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policy 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The impact of the fence is likely to carry some overshadowing and overbearing impacts upon the rear amenity of neighbouring properties. This impact is worse in the later part of the day/evening due to the fences westerly location (to neighbouring properties), the structures are of a height that would not overly impinge the amenity of neighbours however there is one large 'family room' and a steel container set up against the boundary, further containers are also located at the northern end of the application site. The intensive use of this area is likely to have an increased impact upon the amenity of neighbouring properties, however this is not at a level that would likely represent reasons

for refusal especially given the use is for domestic purposes only (this will be reinforced through planning condition).

It is considered that a condition regarding the control of outdoor lighting is required, as should the area be heavily lit this may result in unacceptable impacts by way of light pollution to those dwellings fronting Stockwell Gate.

On this basis and subject to the control of lighting the proposal is considered to accord with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan as well as paragraph 135f of the National Planning Policy Framework.

Highway Safety

Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The Highway Authority have been consulted and have stated that they have no objections on highway safety or parking grounds. Therefore a condition ensuring the application site and buildings within it function for domestic purposes only, and linked to the host property 'Springway'. would be sufficient to mitigate any highway safety concerns in relation to this application site.

The proposal then in respect of highway safety and parking provision would accord with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan as well as section 9 of the National Planning Policy Framework.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

Material considerations existing in this instance that would support a departure from the local plan. There are no objections from consultees. The control over external lighting as well as as reinforcing that the application site is for domestic purposes only are required to mitigate impacts upon neighbouring amenity.

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.

Conclusion

The proposal is considered acceptable subject to the conditions discussed within this report.