

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H23-0428-24      **Applicant:** Mr S Steward

**Proposal:** Change of use of agricultural land to storage of building materials and equipment including erection of 2.4m high fence (retrospective)

**Location:** Rear Of Springway Stockwell Gate Whaplode

**Terminal Date:** 16th October 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    |
| 28 | The Natural Environment   |
| 30 | Pollution                 |
| 36 | Vehicle and Cycle Parking |

#### National Guidance

#### National Planning Policy Framework 2023

Section 2 - Achieving sustainable development  
Section 4 - Decision-Making  
Section 5 - Delivering a sufficient supply of homes  
Section 9 - Promoting sustainable transport  
Section 12 - Achieving well-designed and beautiful places  
Section 14 - Meeting the challenge of climate change, flooding and coastal change  
Section 15 - Conserving and enhancing the natural environment

### Representations:

|                                       | Object | Support | No Obj. | Comments |
|---------------------------------------|--------|---------|---------|----------|
| PARISH COUNCIL                        | 0      | 0       | 0       | 0        |
| WARD MEMBER                           | 0      | 0       | 0       | 0        |
| HIGHWAYS & SUDS SUPPORT               | 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              | 3 | 0 | 0 | 0 |

## **CASE OFFICER ASSESSMENT**

### **Reason for Chairman's Panel**

The application site and development requires consideration of panel.

### **Proposal**

This is a full planning application for a change of use of agricultural land to storage of building materials and equipment including erection of 2.4m high fence (retrospective).

The 'storage yard' is accessed through a shared drive emanating from Stockwell Gate; this drive serves the residential amenity area of 'Springway' and a dwelling that is approved under 'H23-0267-24'.

### **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 site is currently being used as a storage yard for building materials and vehicles.

### **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

H23-0264-24 - Change of Use of Land to Domestic and Erection of Family Games Room, including Security Camera (Retrospective). Approved 04-06-24

H23-0267-24 - Erection of dwelling, garage, and swimming pool - Re-submission of H23-0905-23. Approved 26.07.24

### **Consultation Responses**

#### **Highways and SuDs Support**

No Objections.

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 or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments: Change of use of agricultural land to storage of building materials and equipment including erection of 2.4m high fence (retrospective). 0267-24 for a dwelling on land to the south now has planning approval. This application is for the storage of the applicants construction equipment and materials that aren't needed on site. The change of use from agricultural to storage will not be an intensification of use taking into account the proposed vehicle movements from the storage yard to what could be associated with agricultural use. The fence does not run alongside the highway boundary. The proposal will not have an adverse effect on the public highway or surface water flood risk.

#### Senior Ecologist

On the face of it, the proposal will meet the 10% BNG requirement, and the information submitted thus far is adequate. However, I would like to advise the applicants that the proposal to create acid grassland is not appropriate and is unfeasible for their site. I would instead refer the applicants to [Neutral\\_Grasslands.pdf \(magnificentmeadows.org.uk\)](https://magnificentmeadows.org.uk) to explore the options for creating a neutral grassland habitat and to inform their management activities. They will also need to describe the habitat management within a habitat management and monitoring plan to be submitted along with their biodiversity gain statement pre-commencement (See the small sites HMMP and checklist available from Habitat Management and Monitoring Plan Template - JP058 ([naturalengland.org.uk](https://naturalengland.org.uk))).

#### Environmental Protection

The current close board 2.4m should be maintained in good condition at all times to reduce noise impact on nearby residential properties. we would advise site operating time limits of 7:30 am -18:00 maximum Monday to Friday with no Saturday pm - Sunday working permitted, for both the storage facility and construction of the proposed dwelling. The site is subject to monitoring following noise nuisance reports and service of a Community Protection Notice warning but there are no current concerns.

#### Internal Drainage Board

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which may require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime. Where consents are required, the Board strongly recommends that these are sought from the Board prior to determination of this planning application. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

#### **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, expressing concerns.

These can be summarised as follows:

- Planning Principle
- Amenity
- Character Impacts
- Ecology
- Vehicular Movements/Highways Safety

#### **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 are detailed within the report 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
- Ecology
- Planning Balance

#### Principle of Development

The South East Lincolnshire Local Plan (2019) 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 (2019) 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 Whaploode) of the South East Lincolnshire Local Plan 2011 - 2036. Policy 1 'D' (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) 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 the proposal therefore which is for the change of use of this land for storage of building equipment is considered unacceptable in principle being contrary to Policy 1 of the South East Lincolnshire Local Plan (2019).

#### Material Considerations

Paragraph 47 of the National Planning Policy Framework (December 2023) relates to the determination of planning applications. It 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.*

The wider area of land has been subject to a number of approvals which include change of use of land to extend the residential curtilage, the erection of a dwelling and the use of a salon in connection with 'Springway'. These applications were delegated approvals, that first went before chairman's panel.

This area of land therefore represents an 'infill' section to the rear of the existing residential curtilage of Spring way and to the north of the recently approved dwelling (which is also in the open countryside) approved under H23-0267-24. The application site given its location, proximity to the existing built-up nature of the village and scale the impacts from the loss of this space for agricultural purposes would lead to limited harm.

Therefore, giving weight to the fact that limited harm would follow in losing this space for agricultural purposes, the fall back permission of the dwelling already approved in the open countryside in that it would provide a screening effect and the proximity to Springway itself as well as the built up part of the village the change of use of this land from agriculture to storage is considered acceptable and material considerations exist that would support a departure from the plan in this instance.

### Flood Risk & Drainage

Section 14 of the National Planning Policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

Policy 4 sets out South Hollands 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.

In accordance with National Planning Policy Framework (December 2023) Annex 3 the proposed use is less vulnerable and so there is no change in the vulnerability classification. The ground materials are permeable and there are no buildings proposes and so no net increase in surface water drainage.

On this basis the proposal would accord with Policy 4 of the South East Lincolnshire Local Plan 2019.

### Character & Appearance

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that

decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments 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, among other considerations.

Paragraph 185 (of section 15) of the National Planning Policy Framework (2023) 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.

Point 1 of Local Plan Policy 2, 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 proposal is fenced off behind solid 2.4m timber fencing and will be therefore screening from having wider impact. The site will be experienced from rear openings of dwellings fronting Stockwell Gate, however the visual amenity impacts, whilst no longer verdant would not result in an unacceptable level of harm especially given that the internals of the site are largely screened by the fence.

The applicant also proposes a mix of landscaping, this is discussed further in the BNG section, however it does result in a softening of the overall site.

On this basis the proposal would accord with Policies 2 and 3 of the South East Lincolnshire Local Plan 2019, as well as Paragraph 180 of the National Planning Policy Framework (December 2023).

### Residential Amenity

Paragraph 135 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.

Policies 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 applicant has provided an acoustic report by Acoustic Associates, this report recommends that 2.4m fencing is installed and the restriction of its use to daytime hours.

Environmental Protection have made comment and consider that the proposal would be acceptable in terms of amenity subject to the retention of this fence that the hours of operation are *7:30 am -18:00 maximum Monday to Friday with no Saturday pm-Sunday working permitted*

Therefore, given that Environmental Protection have no objections and subject to those condition the proposal is considered acceptable in principle.

### Highway Safety

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

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.

The applicant will utilise the existing access arrangement from Stockwell Gate, Highways have been consulted and have stated *The change of use from agricultural to storage will not be an intensification of use taking into account the proposed vehicle movements from the storage yard to what could be associated with agricultural use.* The planning statement expands on how the site will be utilised and LCC Highways find this acceptable.

Therefore, subject to conditions linking the use as described within the planning statement the proposal is considered to align to Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.

### Ecology

NPPF Paragraph 186 sets out a criteria-based approach for LPAs to apply when considering development proposals. The criteria in part includes methods to protect and encourage bio-diversity as well as preventing development resulting in the loss of priority habitats.

NPPF Paragraph 180d is also relevant requiring net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

SELLP Policy 28 is concerned with the Natural Environment points 2 and 3 are relevant to this assessment, point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

The applicant has provided a BNG report and metric, the ecologist has confirmed that the 10% BNG requirement will be met, though comments expend stating that a neutral grassland may be better. Ultimately the ecologist is happy to recommend approval subject to conditions. These normally would be pre-commencement but will be time related given the retrospective nature of this application.

Therefore, it is considered that the proposal would meet with SELLP Policy 28 as well as paragraphs 180d and 186 of the National Planning Policy Framework (December 2023).

### 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 in relation to the limited harm that would follow losing this space for agricultural purposes, the effect that previous planning permissions across the wider area have in terms of screening, as well as the proximity of this site to the built up part of the village suggest that a departure from the plan could be supported. However, the proposed dwelling is out of keeping in terms of scale and massing with others along this part of Stockwell Gate and Field View.

There are limited impacts in relation to amenity which would be mitigated through conditions and the impacts in relation to ecology, highway safety and flooding are acceptable.

### **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**

Taking the above considerations into account, the proposal despite representing a departure from SELLP Policy 1, gives rise to other material considerations that would suggest that support can be given to the scheme. This relates to the limited harm that would follow from the use of this area as a storage yard, and that amenity would be mitigated by hours of operation and linking the use of the yard to the applicants dwelling 'Springway'.

The application has been before chairman's panel who consider that this item, with this recommendation can remain delegated.

## **Recommendation**

Approve with conditions.