

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	H23-0501-20	Applicant:	NKW Design Ltd
Proposal:	Erection of 6 Self-Build Eco Homes with access from Millgate		
Location:	Land Off Millgate Whaplode Drove Spalding		
Terminal Date:	24th September 2020		

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 5 - Delivering a sufficient supply of homes
 Section 9 - Promoting sustainable transport
 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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	1	0

HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	3
OTHER STATUTORY BODIES	0	0	0	3
RESIDENTS	1	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is an outline application (with all matters reserved) for the erection of 6 Self Build Eco Homes with access from Mill Gate on land off Millgate, Whaplode Drove.

An indicative site layout plan has been submitted with the application to demonstrate how 6 properties could be accommodated within the site. This shows a private road off Mill Gate which loops towards the existing industrial units to the north, with all the properties located to the south with frontages facing north/north-west.

Site Description

The application site is a former horticultural site with some glasshouse remains still being visible. It has a frontage on to Millgate which is delineated by trees and there is grazing land opposite. There are a number of industrial units to the north and frontage residential properties to the north and south. The wider area has a rural character.

Relevant Legislation

The Self-build and Custom Housebuilding Act 2015

The Act (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals.

In considering whether a home is a self-build or custom build home, relevant authorities must be satisfied that the initial owner of the home will have primary input into its final design and layout.

The Act also sets a 'duty to grant planning permission etc', specifically "...authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period."

To increase the number of planning permissions which are suitable for self-build and custom housebuilding, Councils are encouraged to work towards:

- developing policies in their Local Plan for self-build and custom housebuilding;
- using their own land if available and suitable for self-build and custom housebuilding and marketing it to those on the register;
- engaging with landowners who own sites that are suitable for housing and encouraging them to consider self-build and custom housebuilding and facilitating access to those on the register where the landowner is interested; and
- working with custom build developers to maximise opportunities for self-build and custom housebuilding.

The Self-build and Custom Housebuilding Regulations 2016

History

H23-0080-19 - Change of use of part of site to builders yard (sui generis) (approved July 2019)

Consultation Responses

Environment Agency - No comments to make.

South Holland Drainage Board - Infiltration testing should be undertaken and consent will be required to relax the Byelaw relating to the 9m buffer.

Lincolnshire Police - No objections to the principle of development. Provides advice for the applicant to consider when drawing up a more detailed proposal.

SHDC Building Control - If this is to be a private drive it will need to be constructed to take a 18T Fire Appliance and refuse should not be carried more than 30m under Building Regulations.

SHDC Environmental Protection - Requests the full contaminated land condition.

SHDC Strategic Housing - As of the 30th July 2020 there are 63 entries on the South Holland District Council Custom and Self-build Register. 61 of these are for individual plots and 2 for group schemes.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. Proposal seems to be acceptable in principle. Highlights that due to the anticipated length of the access road, it will need to be subject to a s38 agreement or an APC. Consideration should be given to ensuring sufficient turning space to allow a fire appliance and refuse truck to enter and leave in forward gear. A bin storage area near the existing highway will be required if the road is to be private. Highlights parking space requirements and requests that the SUDS system indicated remains part of the proposal.

LCC Education - The County Council has no comments to make on this application in relation to education as this falls below the point at which a request could be made.

Public (1 objection and 2 comments, summarised) -

- Discrepancy between location plan and illustrative layout plan in terms of whether access will still be maintained to septic tank belonging to frontage property
- Rear access to existing frontage property would be compromised
- Concern re impact on/quality of existing infrastructure (e.g. water supply, lack of mains gas or sewers, poor internet signal and fluctuating electricity supply)
- Applications H23-0742-16 and H23-0370-19 were refused on the same piece of land. H23-0080-19 was approved, to convert part of the land to a builders yard which causes disturbance in the morning and late into the evening
- Current proposal would be detrimental to property and life in the vicinity
- Area becoming increasingly urbanised

Planning Considerations

The key considerations in this instance are:

- Principle
- Highway safety, access and parking
- Flood risk and drainage
- Residential amenity

- Other considerations

Principle

The Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area. The level of demand is established by reference to the number of entries added to an authority's register during a base period. The Council currently has 63 entries on its register, 61 of these being for individual plots and 2 for group schemes.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at paragraph 5.3.5 that "within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development **provided that the material considerations of the Local Plan and particular sites can be met**". This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in a recent appeal decision (APP/A2525/W/18/3218958), despite giving the statutory requirement re self-build and custom-build significant weight, that the appeal site was not a suitable location for that type of housing. This demonstrates the above point in practice.

The remainder of this report will consider whether there are any material considerations that indicate permission should not be granted for the proposed development.

The site is not located within any defined settlement boundary as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). It is therefore in the countryside in planning policy terms.

Policy 1 of the SELLP states that development in the countryside will only be permitted where it 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.

The supporting text to Policy 1 states that "housing needs 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 proposal is not considered to 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).

Policy 17 (Providing a Mix of Housing) sets out that the provision "of new houses will seek to meet the long term needs of the Plan area in order to maintain and provide mixed, inclusive and sustainable communities" and that the "Local Plan will also seek to meet the housing needs of non travelling Gypsy and Traveller households and also custom and self builders as they may come forward."

However, open market housing, which this self-build housing would be considered to be, is not a development type that requires a countryside location. This is particularly the case in this instance where the Council has a recently adopted development plan with a spatial strategy setting out how the housing needs for the area will be met. In addition, the Council has an identified 5-year housing land supply (9.1 years as at 31st March 2020).

Paragraph 79 of the National Planning Policy Framework (2019) (NPPF) 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 that Paragraph 79 should apply in this instance. There are residential properties immediately adjacent, therefore the site cannot be described as remote or 'isolated'.

Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that the development of 6 self-build eco homes are necessary to this location. In terms of the 3 dimensions of sustainable development, the following has been considered:

- An economic role:

The development may support the local economy through employment opportunities associated with construction and future occupants may work locally and support local services.

- A social role:

The proposal would make a contribution, albeit relatively small, towards housing supply in the district (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings). However, the site does not relate well to any existing settlement. It is approximately 1.4km from the built-up area of Whaplode and there are no footpaths, street lighting or bus stops served by a regular bus service nearby. Consequently, pedestrian access would potentially be hazardous due to the lack of footpath connection from the site as well as street lighting and Mill Gate being subject to the national speed limit to the north and south. It is, therefore, considered that the proposal would be contrary to Paragraph 108 of the NPPF which states that it should be ensured that safe and suitable access to the site can be achieved for all users, and Paragraph 110 which states that priority should be given to pedestrian (and cycle) movements and that the scope for conflict between pedestrians and vehicles should be minimised.

- An environmental role:

There are a number of industrial units located to the north of the site and there are a small number of frontage residential properties in close proximity. However, the main built up area of Whaplode is approx. 1.4km away and the overriding character of the wider area is rural and agricultural in nature. This is highly noticeable when you travel both north and south from the site, particularly due to the flat fenland landscape. The site was formerly a horticultural nursery (greenfield) which further demonstrates the rural nature of the area. Policies 2 and 3 of the SELLP give weight to protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in general conformity with Sections 12 and 15 of the NPPF. It is considered that the proposal would further intensify the existing cluster of built development in this part of the countryside to the detriment of the character and appearance of the locality. It would therefore be contrary to both local and national policy in this regard.

With regard to other environmental aspects, it is intended that the dwellings would be eco homes, although no information has been submitted on what this might entail other than example photographs in the Design and Access Statement. If permission were to be granted it should be subject to appropriate conditions and a legal agreement securing suitable design standards for an eco dwelling.

Given the above, on balance, it is not considered that the application site is a suitable site for residential development of that proposed. Although there would be some benefits in terms of the potential for job creation and assisting housing (including helping the Authority to meet its statutory duties to maintain an adequate supply of plots to meet the demand for self-build/custom-build dwellings), it is considered that these benefits are outweighed by the harm that would be caused by virtue of the impact its development would have on the character and appearance of the area and potential pedestrian safety issues. It is also clearly evident that in principle the site does not accord with the provisions of the SELLP. Furthermore, the Council is capable of demonstrating a 5-year housing land supply (9.1 years as at 31st March 2020).

The applicant has made reference to a recent permission granted for 6 self-build plots in Crowland (H02-0669-19), however each application must be considered on its own merits and the application site is not considered to be suitable for the development proposed.

Highway safety, access and parking

Access is a reserved matter, however the Highways Authority have not objected to the principle of the proposed development. The proposal is considered to be acceptable on highways grounds at this stage and in accordance with Policy 2 of the Local Plan which requires it to be demonstrated that access and vehicle generation levels will be acceptable.

Appendix 6 of the SELLP sets out minimum vehicle parking standards for residential developments and requires that at least 2 parking spaces are provided within the curtilage for dwellings with 3 or more bedrooms and that 3 parking spaces are provided within the curtilage for dwellings with 4 or more bedrooms. Given the size of the site, this should be achievable.

Flood risk and drainage

The NPPF requires the application of the Sequential Test to steer new development to areas with the lowest risk of flooding. If it is not possible for development to be located in zones with a lower risk of flooding (taking into account wider sustainable development objectives), the Exceptions Test can be applied if appropriate.

The site is located within Environment Agency Flood Zone 1 and the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) identifies the site as not being affected by flood hazard or flood depth. The site is therefore sequentially preferable in flood risk terms and the Exception Test need not be applied.

In terms of surface water drainage, the submitted flood risk assessment identifies a preliminary drainage strategy involving a proposed outfall for run-off into the existing IDB watercourse to the eastern side of Millgate (Whaplode River Drain). The assessment notes that infiltration (which is the preferred method in the drainage hierarchy) may not be possible due to the geology of the area. Full details of surface water drainage can be secured by condition if permission were to be granted, and infiltration testing would be required.

There are no main sewers in close proximity to the site and so the proposal is to provide a treatment plant within the site to treat foul water before outfall into the existing IDB watercourse. Full details of foul drainage can be secured by condition if permission were to be granted.

South Holland Internal Drainage Board and the Lead Local Flood Authority have not objected to the proposals at this stage.

Taking the above into account, there is not considered to be any conflict with Policies 2, 3 and 4 of the Local Plan at this stage. These policies require proposals, amongst other things, to provide appropriate means of drainage and flood defence.

An objector has suggested that their septic tank lies within the site and are concerned that access to this could potentially be compromised. They also believe that part of the site may belong to them. The applicant has subsequently provided a Land Registry document for said property which shows that all of the land belonging to that property is outside of the red line boundary.

Residential amenity

Although the specific details of design and layout would be dealt with at reserved matters stage, it is considered that an acceptable standard of residential amenity is capable of being provided. The proposed dwellings and layout can be designed so as to minimise overlooking, overshadowing and prevent an overbearing impact.

The proposal therefore complies with Policy 3 of the Local Plan in this regard.

Other considerations

A number of other issues have been raised through resident objections that are addressed here for completeness:

- Structural damage to properties is a civil matter and therefore beyond planning.
- Concerns relating to the strain on existing infrastructure are noted. However, it is not considered that a development of this scale would have a significant adverse impact on the functioning of such infrastructure.
- The planning history of the site is noted but each application must be determined on its own merits.
- The layout plan is only illustrative and access is a reserved matter meaning that the proposed road might not remain in the position shown.

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 into account, the proposal is considered to be contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (2019) as well as Paragraph 8 and Sections 9, 12 and 15 of the National Planning Policy Framework (2019).

The recommendation is therefore to refuse the application.