

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H23-0571-21 **Applicant:** Mrs L Minckley
Proposal: Erection of a 4 bed detached bungalow
Location: Land South Of 150 Broadgate Whaplode Drove Spalding
Terminal Date: 14th July 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
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
22	Replacement Dwellings in the Countryside
23	The Reuse of Buildings in the Countryside for Residential Use
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 2 - Achieving sustainable development
 Section 4 - Decision-making
 Section 5 - Delivering a sufficient supply of homes
 Section 8 - Promoting healthy and safe communities
 Section 9 - Promoting sustainable transport
 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.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	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	1	0
RESIDENTS	4	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Outline permission is sought for one 4 bed detached bungalow with all matters reserved.

Site Description

The application site is an open field adjacent to 150 Broadgate. It is outside the Whaplode Drove settlement boundary and within the open countryside. There are residential dwellings to the north and east of the site and open countryside to the west. A dyke runs along the front of the property.

History

No relevant planning history.

Consultation Responses

Whaplode Parish Council

No comments or objections.

SHDC Environmental Protection

No comments or objections.

LCC Highway Service and Lead Flood Authority

No objections as the section of Broadgate at the site's frontage has an existing footway and the access onto the highway has adequate visibility.

2no informatives are suggested to seek permission from the local highway authority relating to the formation of a new vehicular access and any proposed utility connections

South Holland Internal Drainage Board

Infiltration testing in line with BRE Digest 365 (or equivalent) should be carried out to see whether soakaways can work efficiently. If following investigations it is found that infiltration is no longer a viable option for the discharge of surface water and a discharge to a watercourse is proposed, then the development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

The proposal to use a package treatment plant to process foul waste, which will then discharge the treated foul water into a watercourse will require consent from the Board under Byelaw 3.

The applicant has also confirmed that they intend to install a culvert in the riparian watercourse to the front of the site to facilitate site access. This proposal requires consent from the Board under Section 23 of the Land Drainage Act 1991 (and byelaw 4).

Local Residents

4no objections have been received siting the following concerns:

- Ponding at the rear of the existing neighbouring dwellings
- Concerns of traffic during the construction period
- Concerns of whether the doctors can cope with the village expansion
- Noise/dust during construction
- The beech hedge along the boundary of no.150 is a highly valuable wildlife corridor and used by nesting birds

Planning Considerations

The key considerations in this instance are:

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

Principle of Development

The proposed development would be outside the Whaplode Drove settlement boundary limit set within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as the open countryside.

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 - LPA ref H09-0250-18.Land Off Battlefields Lane North Holbeach), that despite giving the statutory requirement regarding 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 application site is located outside of the settlement boundary of Whaplode Drove as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). It is therefore located within the Countryside in planning policy terms.

Policy 1 of the SELLP sets out the spatial strategy for development within the District for the plan period, and clarifies 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.

The SELLP clarifies that there are types of development that require a Countryside location either because it is the location of an existing building or use of land. Housing needs may, 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 needs of a settlement (Policy 19: Rural Exceptions Sites). However this proposal is not being justified by reason of these policies and so for the purposes of this report, can be set aside, as the development is proposed to be open market housing, albeit for self-build owner/occupiers in the first instance.

Policy 10 of the SELLP sets out the expectation for housing delivery over the plan period.

Policy 11 of the SELLP sets out a hierarchy of settlements for housing development and the SELLP acknowledges that incremental growth in housing supply will come about through infill and 'speculative' applications both within the settlements identified in Policy 11 and also within the Other Service Centres and Settlements.

In looking at the distribution of housing within the District, the SELLP sets out at 5.3.5 that it is acknowledged that incremental growth in housing supply will also come about through infill and 'speculative' applications both within the settlements identified in Policy 11 and also within the Other Service Centres and Settlements. Policy 1: Spatial Strategy is the main supporting policy through which to assess infill development opportunities (with reference to the relevant Inset Map). 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. Housing need may also be met through Policy 19: Rural Exception Sites, where appropriate.

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.

Policy 17 also sets out that the Local Plan will also seeks to meet the housing needs of non travelling Gypsy and Traveller households and also custom and self builders as they may come forward.

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.

Paragraph 79 of the National Planning Policy Framework, 2019 (NPPF) sets out that:

Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling; or*
- e) the design is of exceptional quality, in that it:*
 - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
 - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.*

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

- An economic role:

The development may give limited support to the local economy through employment opportunities associated with some elements of construction and fitting out, and future occupants may work locally and support local services.

- A social role:

The proposal would make a contribution, albeit 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). The Design and Access statement states that there is a short supply of 4 bedroom single storey dwellings. However, there is no evidence of this and no explanation why this cannot be accommodated within an existing settlement boundary.

- An environmental role:

The environmental objective identifies the need to protect and enhance our natural, built, and historic environment. The submitted Design and Access statement states that the proposed dwelling would adhere to this, with a single storey dwelling infilling the land of neighbouring single storey dwellings on the West side of Broadgate to bring the settlement boundary in line with that of the East side of Broadgate. However, the proposed dwelling would not be in fill but rather an extension to the edge of the village boundary. Against that consideration it does not demonstrate that it is necessary to be in this location.

If permitted, the proposal would also encourage further applications of a similar nature in the open countryside which would then be hard to resist, contrary to the objectives of the Framework to pursue sustainable development and the aim to protect the character of the countryside.

The applicant puts forward the case that a similar development outside the Whaplode settlement boundary has been permitted under planning reference H23-0650-18. However, this scheme was permitted when the Council did not have a 5 year land supply therefore Policy 1 can be given full weight.

The proposal would domesticate and materially change the present rural character of the site with no demonstrated benefit that would outweigh such impact upon the environment. Whilst other material planning considerations such as neighbouring amenity and parking could be accepted, the principle of the development would not be considered acceptable given the site is in the open countryside.

Highway safety, access and parking

Given there is an outline application with all matters reserved no details have been submitted with regards to parking/access. The Local Highway Authority has not raised any objections to the proposed scheme and suggested 2 informatives relating to the new vehicular access and any utility connections that may be required.

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 application site is mainly within flood risk zone 1 with a small part of the site falling within zone 2. As such there is no requirement for a flood risk assessment to be submitted.

A number of local residents have raised concerns with regards to risk of flooding as a result of additional development in the area.

The South Holland Internal Drainage board has not raised any objections to the proposed scheme and has advised that in order to ensure the surface water discharge from the site has no negative impact

regarding potential flood risk to nearby land and/or properties, infiltration testing in line with BRE Digest 365 (or equivalent) would need to be carried out to see whether soakaways can work efficiently. If following investigations it is found that infiltration is no longer a viable option for the discharge of surface water and a discharge to a watercourse is proposed, then the development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any consent granted will likely be conditional, pending the payment of a Surface Water Development Contribution fee, calculated in line with the Board's charging policy.

Furthermore, after correspondence with the applicant it has transpired that they intend to use a package treatment plant to process foul waste, which will then discharge the treated foul water into a watercourse. This proposal requires consent from the Board under Byelaw 3.

The applicant has also confirmed that they intend to install a culvert in the riparian watercourse to the front of the site to facilitate site access. This proposal requires consent from the Board under Section 23 of the Land Drainage Act 1991 (and byelaw 4).

Taking the above into account, subject to a satisfactory drainage scheme the scheme would not

conflict with Policies 2, 3 and 4 of the Local Plan at this stage.

Residential amenity

This application is outline with matters of design reserved, and the consideration of the residential amenity of the adjoining dwelling would be considered at that time.

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

Other Matters

Local residents have raised concerns of traffic during the construction period - this is noted, however, traffic from the erection of a single dwelling would not be significant and would be for a short period therefore the scheme could not reasonably be resisted on this basis.

Concerns have been raised with regards to whether the doctors can cope with the village expansion - the concerns are noted, however, the additional of one single dwelling is not considered to significantly impact this therefore no further details are required in this respect.

Local residents have raised concerns of noise and dust during the construction period - these are noted, however this would only be for a short period therefore the scheme could not reasonably be resisted on this basis.

The adjacent neighbour at no.150 has asked for reassurance that the beech hedge along the boundary of no.150 would be protected as this is a highly valuable wildlife corridor and used by nesting birds. As the application is for outline planning permission with all matters reserved no details have been provided with regards to the hedge in question. The hedge could be protected at the reserved matters stage if required.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed dwelling due its location in the one countryside would conflict with the spatial strategy outlined in Policy 1 of the SELLP, as well as Policies 10, 11 and 17 of the SELLP, which underpin the delivery of housing within defined settlements. The proposal also does not comply with any of the exceptions for new dwellings in the countryside defined under Policies 19, 20, 22 or 23 of the SELLP.

On balance, any adverse impacts of granting permission to the proposals would significantly and demonstrably outweigh the benefits, when assessed against the planning policies taken as a whole.

CONCLUSION

The proposal would make a small contribution to the supply of housing required to meet the needs of present and future generations within the district. It may also bring small economic benefits to the area. However, these factors are outweighed by the harm that the proposal would cause in terms of other social and environmental factors such the development's effect upon the character and appearance of the countryside. The site is not, therefore, considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the rural character of the countryside. It is, therefore, contrary to Policy 1 of the South East Lincolnshire Local Plan, 2019.

Paragraph 79 of the NPPF, 2019 exceptionally makes provision of isolated homes in the countryside, where they are for rural workers to live permanently at or near their place of work in the countryside, and also for dwellings of exceptional or innovative design. However, it is not considered applicable in this case because the site is not isolated as per case law addressing such issue. Even if paragraph 79 was to be engaged it has not been demonstrated that there is an essential need for a rural worker in this specific location.

Should the proposal be approved, it would entail adverse impacts which significantly and demonstrably outweigh the benefits when assessed against the planning policies, especially

Paragraph 79 of NPPF. Taking into account the considerations above, the proposed development is contrary to Policies 1, 2 and 3 of the SELLP, 2019 and Sections 2, 5, 9, 12 and 14 of the NPPF, 2019.

It is accordingly recommended to refuse this planning application via delegated decision.

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

It is clearly the requirement of a plan led system, as set out in statute and guidance, that decisions should be made 'in accordance with the Development Plan unless material considerations indicate otherwise'. In this case there are considered to be no material considerations that are so significant as to outweigh the primacy of the Development Plan and the damage that would be caused to undermining it with non policy compliant proposals.

The recommendation is therefore to refuse the application for the following reason:

The application site is located outside of the settlement boundary of Crowland. The site, by virtue of its location, is poorly related to the existing built-up residential area of Crowland as outlined in the South East Lincolnshire Local Plan (SELLP, March 2019). The site is physically and functionally detached from Crowland, its settlement boundary, and is located in the open countryside. As per Policy 1 of the SELLP it is classed as being in the 'Countryside' in planning policy terms.

As a consequence, future occupiers would be likely to have a high dependence on the use of motor vehicles, which would increase carbon emissions. Residential development in this location is, therefore, considered to be inappropriate and would result in harm in relation to the social and environmental objectives enshrined in Paragraph 8 of the National Planning Policy Framework (NPPF, 2019). Given the location of the site the proposal is in conflict with the spatial strategy outlined in Policy 1 of the SELLP, as well as Policies 10, 11 and 17 of the SELLP, which underpin the delivery of housing within defined settlements. The proposal also does not comply with any of the exceptions for new dwellings in the countryside defined under Policies 19, 20, 22 or 23 of the SELLP.

Policy 1 states that development in the Countryside will only 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".

It is accepted 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, and that there is demand for such plots in the area. However, it is not considered that open market housing, which self-build housing is considered to be, is a type of development 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).

Furthermore, although the proposal would make a small contribution towards housing supply (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) and the economy in the District, these factors are outweighed by the harm that the proposal would cause in terms of its environmental effects.

For the reasons outlined above the proposal is considered to be in conflict with the SELLP, as well as the intentions of the NPPF 2019. Paragraph 12 of the NPPF reiterates that the development plan is the starting point for decision making and that where a proposal conflicts with an up-to-date development plan it should not usually be granted. There are not considered to be material planning considerations that would outweigh the harm identified in this particular case which would indicate that the plan should not be followed.

RECOMMENDATION

The application is therefore refused under delegated powers.