DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0616-24**	**Applicant:**	**Mr & Mrs I Sloan**
Proposal:	Proposed New Dwelling		
Location:	Adjacent To Victoria Cottage Stockwell Gate North Whaplode		
Terminal Date:	16th September 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
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 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

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	0	0	0	1

INTERNAL DRAINAGE BOARD				
SHDC INTERNAL	0	0	2	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is an outline planning application seeking permission for a proposed new dwelling adjacent to Victoria Cottage, Stockwell Gate North.

This application is a re-submission following the refusal and subsequent appeal dismissal of H23-0731-23, which sought permission for the same proposal however this new application proposes a slightly altered scheme.

Site Description

The site is located within the defined settlement boundary of Whaplode as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP).

History

H23-0183-20 - Extension and Alterations - Approved

H23-1152-22 - Proposed Cedral cladding to front and side elevations - Approved

H23-0731-23 - Proposed Residential Development - Refused - Appeal Dismissed

H23-0731-23 was refused for the following reasons:

Policy 2 of the adopted South East Lincolnshire Local Plan (SELLP, 2019) states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, 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 of the South East Lincolnshire Local Plan (SELLP, 2019) states that development proposals will demonstrate how an acceptable design of development including residential amenity will be secured. Policy 30 of adopted South East Lincolnshire Local Plan (SELLP, 2019) states that development proposals will not be permitted where they would lead to unacceptable adverse impacts on the amenities of the area. Paragraph 130 of the National Planning Policy Framework (NPPF, 2023) states that decisions should ensure that developments will function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and 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. Finally, Paragraph 134 of the National Planning Policy Framework (NPPF, 2023) states that development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design.

The dwelling, by virtue of its size and density when compared to the plot would result in unacceptable adverse impacts on the character and appearance of the street scene of Stockwell Gate North and would appear as a cramped form of development. Accordingly, the proposal would be contrary to Policies 2, 3 and 30 of the adopted South East Lincolnshire Local Plan (SELLP,

2019) and the guidance within the National Planning Policy Framework (NPPF, 2023) and is therefore refused.

The proposed dwelling to be built on this land would suffer greatly from a lack of amenity and privacy. The closeness and proximity between the proposed dwelling and the existing Victoria Cottage would result in the amenity spaces and windows of the proposed residential development to be significantly overlooked and therefore a real lack of privacy and loss of amenity. Likewise, the proposed dwelling, if built as a two storey, would overlook into Victoria Cottage and therefore mean they would also lose their privacy and impact the amenity further.

The proposal is therefore considered to directly conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 (SELLP) and the guidance within the National Planning Policy Framework (NPPF, 2023) and is therefore refused.

Consultation Responses

South Holland Internal Drainage Board

Consent may be required under Byelaw 3, is not currently required under Section 23 and is not applicable under Byelaw 10.

Lincolnshire County Council Highways

Recommendation:

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:
O/L Informative

Outline with all matters reserved

The principle of development is acceptable. As this is an outline application with all matters reserved, access and layout have not been considered. Please make the applicant aware of the requirements for access, parking, visibility, turning and layout as detailed within the Lincolnshire County Council Design Approach.

The proposal is for a New Dwelling - the site is located on Stockwell Gate and is within a 30mph zone. There are footway connections on the other side of the road that leads to Whaplode. At reserved matters stage visibility should be demonstrated in accordance with Manual for Streets and there shall be sufficient parking and turning within the site for the size of the proposed dwelling.

Informatives

Highway Informative 03

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the Highway Authority's website, accessible via the following link: https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb.

Highway Informative 08

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - https://www.lincolnshire.gov.uk/traffic-management

South Holland District Council Environmental Protection

No comments.

Public Representations

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

- There are no change to circumstances to the previous application which was rightly refused
- Moving the building back towards Victoria Cottage just demonstrates that the site is struggling for space. All that will do is block the sunlight out of the windows of Victoria Cottage
- The site is too small for any building, it is a garden and should remain so
- There are two Rowan trees on the site which have a preservation order on them, also many wild birds sleep in Laurel bushes and need their habitat
- The proposed driveway will be directly adjacent opposite houses meaning lights will shine in
- There will be a lack of privacy, no other dwelling along Stockwell Gate is in close proximity to another dwelling
- Regarding the proposed dwelling itself, the distance between the back boundary, close to Victoria cottage, appears to indicate less light in the back rooms
- Can the proposed dwelling be repositioned to the same position as Victoria cottage i.e facing Stockwell Gate West, keeping the laurel hedge as current, and the driveway entrance the same as Victoria cottage

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):
- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity

Evaluation

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.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Planning Considerations

Principle of Development and Sustainability

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 to 2036. Policy 1 (Spatial Strategy) expresses this 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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Main Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The National Planning Policy Framework, (NPPF) (December 2023) outlines, within para 60, that "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay and that land with permission is developed without unnecessary delay".

Para 70 of the NPPF (December 2023) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area and are often built-out relatively quickly"). This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The application site in this instance is within Whaplode, a Minor Service Centre, and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location would typically be considered appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy.

Whilst it is noted that the site lies within the defined settlement boundaries, Policy 1 identifies that within Minor Service Centres development would 'normally' be limited to infill development. Although this does not specifically identify that all development proposal's within 'Minor Service Centres' must be infill, committed or allocated sites, this is consideration of the policy. In this context, development that is not considered infill development or on committed/ allocated site, should typically be limited to those that have a justifiable reason to be located in such sites. The Planning Inspectorates Appeal Decision outlined that the development would not constitute a back land development, this view is maintained by the Local Planning Authority in this instance.

Layout, Design and Consideration of the Character and Appearance of the Area

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.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings. These policies accord with the provisions of the National Planning Policy Framework and require 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.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The proposal is in outline form; however, an indicative site layout plan has been provided alongside a Design and Access Statement. It is important to note that the indicative site layout features the dwelling in the same location as the previously refused application, only extending the site slightly to the west. The Inspectorates decision stated that there appears to be scope to increase the width of the plot by at least 2 or 3 metres however they must consider the proposal based upon the plans in the original application - in an attempt to combat these issues, the revised scheme has increased the indicative plans boundaries taking the total area from 434sqm to 546sqm (approximately). Whilst this is an increase it is of the LPAs view that this fails to address the main issues raised in the reason for refusal and the reasons mentioned within the Inspectorates dismissal. The previous application was refused due to it appearing as a cramped form of development by virtue of its size and density when compared to the plot with the Inspector stating *'The proposed new plot would be further constrained by its triangular shape and as such, to accommodate suitable access, parking and turning, any future dwelling would most likely need to be squashed into the northwest corner of the plot, close to its side and rear boundaries, as shown on the indicative block plan. This would not be in keeping with surrounding dwellings which have more space around them'*. Therefore, despite increasing the size of the plot the proposal is still squished into the north west corner and this application does not solve these issues.

In any case, as the plan is of course only indicative due to the outline nature of the application it must be considered that the positioning of the dwelling could be altered. However, the plot as a whole is small and is not capable of hosting a new property. This is reinforced by the appeal dismissal which outlined that *'I therefore conclude that the proposal for a new dwelling, due to the combined size and shape of the plot, would result in cramped form of development'* and *'The size of the plot would not be commensurate with those surrounding it and due to its constrained width and shape any new dwelling is likely to appear cramped'. It is also of the case officer's belief that the only suitable location the dwelling could be sited is within this north west corner, however, this of course fails to resolve the issues highlighted in the above paragraph thus making the site as a whole unsuitable for the siting of a proposed new dwelling.*

Finally, as referenced in the appeal decision, the size of the plot would not be commensurate with those surrounding it - this therefore suggests that plot would not suit the character of the area and would also look out of place in this sense meaning the proposal does not conform with the relevant sections of the SELLP. This is also supported with the view being taken that to achieve adequate separation distances between plots, it would result in the new plot appearing 'disproportionately smaller and narrower than that retained for Victoria Cottage and other plots on the northern side of Stockwell Gate West'.

Although no details of the materials have been submitted, if outline approval is granted, the

subsequent reserved matters application would be submitted with the LPA being required to assess the exact detail of the proposal, including to ensure that the materials are in keeping with the character of the area with the visual amenity of the development being determined when these details have been provided.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/ Land Users

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.

Providing the proposed new dwelling is a bungalow, there should be no material overlooking following the construction of the dwelling. This will be due to the fact all windows should be located on the ground floor and therefore not have any view over surrounding fences into existing amenity areas or residential windows. Furthermore, should the dwelling be two storey in nature any windows that overlook will be assessed and adequality conditioned at reserved matters stage should this application be approved. Therefore, there is not considered to be any material overlooking in this instance.

In addition to this, there shall be no material overshadowing providing the proposed property is a bungalow. Due to the close proximity between the indicative drawing of the dwelling and the boundary to the adjacent Victoria Cottage this raises the potential for a shadow to be cast onto the rear amenity space and/or any windows on the rear elevation - in any case, as this is only at outline stage the LPA are unaware of the size/height of the property and therefore cannot comment on it at this stage. Should a reserved matters application be submitted this will be assessed in its own right at the time.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).

Flood Risk and Drainage

Section 14 of the NPPF 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 162 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.

These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. The latter have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. However, the maps are broad brush and do not take into account any flood defences. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site is in an area of no danger and danger for some hazard zone as shown on the South Holland Strategic Flood Risk Assessment. The recommendations from the accompanying Flood Risk Assessment state that the ground floor level of the proposed dwelling should be 300mm above the highest existing ground level at a level of 3.63m ODN. This level is 200mm above the finished ground floor level of existing house. These mitigation measures are considered to be acceptable and should allow for residents to acceptably live within the property.

Overall, when considering the development on balance, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019 and the intentions of the National Planning Policy Framework 2023 in this regard.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (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".

In respect of highway matters, 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.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms.

Lincolnshire County Council raised no objection to this development stating 'Having given due regard to the appropriate local and national planning policy guidance Lincolnshire County Council 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'. They have recommended informatives be attached to the decision notice should the application be approved.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and 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.

The proposal represents inappropriate development within the defined settlement boundary.

The development hereby proposed materially harms the character or appearance of the locality due to it appearing cramped within its plot. Whilst it does shows no material harm to amenity of nearby residents, and provides adequate parking, it does not conform to the the South East Lincolnshire Local Plan and the relevant provisions of the National Planning policy Framework when viewed as a whole.

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 is considered to be in accordance with Policies 4 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). However, the issues highlighted within the character section of this report are significant factors in this case that indicate against the proposal and outweigh the consideration against the proposal.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.