

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0822-22 **Applicant:** Mr D Burchnall
Proposal: Residential Development
Location: Broadgate Whaplode Drove Spalding
Terminal Date: 14th October 2022

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
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving sustainable development
Section 3 - Plan Making
Section 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
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
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CASE OFFICER ASSESSMENT

PROPOSAL

Outline planning permission is sought for 2 new dwellings with all matters reserved.

SITE DESCRIPTION

The site is located on Broadgate in Whaplode Drove. A small section of the site is within the Whaplode Drive settlement boundary and the rest is outside the boundary. The site is currently agricultural land located on the western side of Broadgate. A newly constructed dwelling is located to the south-west and business premises further to the south-west. A cottage is located to the north-east set behind the village green. Residential dwellings varying in size and character are located on the opposite side of the street.

RELEVANT HISTORY

H23-0161-20 - Erection of detached dwelling - outline approval H23-0650-18 - Approved

H23-0650-18 - Outline Application- Residential development (3 plots) - Approved

H23-0451-16 - Outline Application - Residential development - Approved

REPRESENTATIONS

LCC Highways/SUDs

Does not wish to restrict the grant of permission subject to informatives regarding formation of new access.

Whaplode Parish Council

Supports the scheme.

South Holland Internal Drainage Board

The applicant has not identified a drainage strategy for the site within their application. It is recommended that a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. No objections subject to compliance with the Boards Bylaws.

PLANNING CONSIDERATIONS

Principle

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 majority of the site is outside the Whaplode Drove Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as the open countryside. 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.

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".

The proposal would essentially be frontage infill. Whilst it would be located on agricultural land, given it would be an infill between existing dwellings within the settlement boundary it is not considered to unacceptably encroach on the open countryside.

In terms of national planning policy, Paragraph 80 of the National Planning Policy Framework (2021) (NPPF) makes provision for new 'isolated' dwellings in the countryside in limited circumstances. The meaning of the term 'isolated' was a matter discussed in *Braintree District Council v Secretary of State for Communities and Local Government* 2 P. & C.R. 9. In that instance, the Court of Appeal supported the Inspector's approach to the question of "isolated homes in the countryside", saying that the decision maker must consider, "whether would be physically isolated, in the sense of being isolated from a settlement". What is a "settlement", and whether the development would be "isolated" from a settlement are both matters of planning judgment for the decision-maker on the facts of the particular case. In *City & Country Bramshill Ltd v Secretary of State for Housing, Communities and Local Government* EWCA Civ 320, the judgement builds upon that reached in the *Braintree* case, confirming that the measure for whether a site is isolated is its proximity to a settlement, not other dwellings.

Applying the above interpretation, given the part of the site is within the Whaplode Drove settlement boundary and the area outside the settlement boundary would be an infill it cannot reasonably be argued that the site is isolated from a settlement.

In addition, the site has previously been granted outline planning permission and a subsequent reserved matters approval for one of the three dwellings previously granted. Whilst it is accepted that the previous outline application was granted when the Council did not have a 5 year land supply and was also assessed against the old Development Plan, given one of the three dwellings approved has already been approved by a reserved matters application and built, it would be unreasonable to not allow the remaining two dwellings.

Given the above the proposal is on balance considered acceptable.

Character and appearance

Paragraph 130 of National Planning Policy Framework (NPPF), 2021 establishes that planning policies and 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 and sympathetic to local character and history, including the surrounding built environment and landscape setting. Policies 2 and 3 of SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses.

The character of the area is defined by a mixture of commercial units and dwelling types, including two storey houses and bungalows. Spacing is also varied. Whilst some properties are on relatively spacious plots others are closer together. On balance, it is considered that two dwellings could be accommodated in this location without materially harming the character or appearance of the immediate area.

As this application is in outline with all matters reserved, the character and appearance of the dwelling would be considered at the reserved matters stage.

Taking all these factors into account it is considered, on balance, that subject to a suitable design and materials two detached dwellings on this site as indicated would not materially harm the character or appearance of the locality and would therefore satisfactorily comply with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the NPPF in this respect.

Residential Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

This is an outline application with all matters reserved therefore it is difficult to fully assess the impact on neighbouring amenity and this would therefore be fully assessed at the reserved matters stage.

The proposed indicative plan show plot 2 being sited close to the shared boundary with the newly constructed dwelling to the south-west of the site at no34 Broadgate. The dwelling is show approximately 5.5 metres from the nearest elevation of this neighbour. It would have a similar set-back to this neighbour. Subject appropriate location of primary windows it is not considered that any unacceptable impact would result.

With regards to the neighbour to the north-east at no.22 Broadgate plot 1 would be the closest to this neighbour as shown on the indicative plan. This dwelling would be sited a sufficient distance from this neighbours closest elevation. As such it is not considered that any overbearing impact or unacceptable overshadowing would result. In addition, there are high level trees along the north-eastern boundary which further reduce any potential impact.

As such subject to a suitable design and positioning of primary windows the proposed development is on balance considered acceptable in terms of its impact on neighbouring amenity and satisfactorily complies with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and paragraph 130 of the SELLP, 2021.

Parking/Highway Safety

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class. It is unclear how many bedrooms each dwelling would contain, however, a maximum of 3no off-street parking spaces would be required for each dwelling.

Plot 1 shows a garage and driveway which can accommodate at least 3no vehicles therefore this meets the maximum parking standards. Plot 2 shows a driveway for 2no vehicles, however, there is space to the front of the proposed dwelling for further off-street parking.

As such the proposal is considered to satisfactorily comply with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan, 2019 in terms of parking/highway safety.

Drainage

Policy 4 of the SELLP relates to flood risk management and states that new development will be permitted if appropriate flood resistance and resilience measures are proposed (criterion c); it incorporates the use of Sustainable Drainage Systems (SuDS) (criterion e); and demonstrates that adequate foul water treatment and disposal already exists or can be provided in time to serve the development (criterion g).

South Holland Internal Drainage Board has advised that the applicant has not identified a drainage strategy for the site within their application. It is recommended that a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. It is noted that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3. There is a Board Maintained watercourse D12 Town Drain Branch (DRN195P1201) adjacent to the northern boundary of the site. Whilst not currently proposed, should the applicant's proposals change to include works to alter the watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). The applicant should confirm if there are any riparian owned/maintained watercourses within or adjacent to the site boundary. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to

alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the Board Maintained watercourse, or if works within 9 metres of the watercourse are proposed at any time in the future, consent would be required under Byelaw 10. An informative has been appended to this effect advising the applicant of the drainage boards bylaws.

Subject to a suitable drainage strategy and compliance with the Boards Bylaws the proposal is considered to be in accordance with Policies 2, 3 and 4 of the Local Plan and Section 14 of the National Planning Policy Framework (2021).

Planning Balance

The principle of developing the residential scheme is acceptable at this location given the previous outline permission and the subsequent reserved matters approval. In addition, the development would be a small infill, not unacceptably encroaching onto the open countryside.

The proposal would not materially harm the character or appearance of the locality, the amenity of neighbouring residents in terms of lack of privacy, overshadowing, overbearing effect, noise and disturbance, etc or result in parking/highway safety issues.

On balance, no adverse impact of granting permission would significantly and demonstrably outweigh the benefits of doing so, when assessed against the planning policies taken as a whole.

CONCLUSION

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.

Taking into account the above, this application complies with Policies 1, 2, 3, 4, 10, 11, 28, 36 and Appendix 6 of South East Lincolnshire Local Plan (2019) as well as Sections 2, 3, 4, 5, 11, 12, 14 and 15 of National Planning Policy Framework (2021).

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.

RECOMMENDATION

That the application be approved under delegated powers.