DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0826-22**	**Applicant:**	**Mr R McNab**
Proposal:	Residential Development - Erection of Bungalow		
Location:	Adj. Conway Common Road Whaplode Drove		
Terminal Date:	12th 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
17	Providing a Mix of 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

IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	1	0
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks outline planning permission for the erection of a bungalow with an attached garage adjacent to the existing dwelling known as Conway.

Site Description

The site is located on Common Road in Whaplode Drove. The site is located outside any defined settlement boundary and within the open countryside. The area of land forms part of the residential amenity space for the existing dwelling on the site. The site is enclosed by high level trees/hedging. The immediate area is characterised by mainly open countryside with a small number of dwellings scattered along the road. The site is within the Environment Agency flood zone 3.

Recent Planning History

No relevant planning history.

Consultation Responses

Whaplode Parish Council

Supports the scheme.

Historic Environment Officer

No observations.

LCC Highways

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

South Holland Internal Drainage Board

Requests ground investigation and infiltration testing to be carried out in order to ensure the proposed drainage strategy is suitable. If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). If the applicant wishes to discharge treated foul water to a watercourse, this proposal will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any alterations to a watercourse will require consent from the Board Byelaw 4).

Planning Considerations

Principle of Development

The proposed development would be outside the Whaplode Drive settlement boundary limit set out

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.

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.

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 Main 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 Main 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 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.

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 sporadic nature of development along Common Road and there being an absence of a distinct 'core', it can be argued that the application site is isolated from a settlement and that Paragraph 80 can be considered of relevance to the proposal.

This paragraph 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 building; or
e) the design is of exceptional quality, in that it:
- is truly outstanding, 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."

Parts (a) - (d) do not apply to this proposal, therefore the only part the application can be assessed against is (e). As this is an outline application with all matters reserved no design details have been submitted. Establishing whether or not a proposal is of truly outstanding design is invariably a subjective matter. By virtue of this, the introduction of a dwelling to the site would not significantly enhance its immediate setting, nor 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). No explanation has been submitted why the development 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. It has not been demonstrated that the development is necessary in this location and how it would protect/enhance the existing character of the area.

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 proposal would introduce a new residential unit in the countryside. It has not been demonstrated how the benefit of such a proposal would outweigh the impact upon the environment. Whilst other material planning considerations could be accepted, the principle of the development would not be considered acceptable given the site is in the open countryside.

Layout, Design, Size and Scale

Policies 2 and 3 of the 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. They are consistent with advice within the National Planning Policy Framework (NPPF), 2021. Paragraph 130 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.

The character of the area is defined by mainly open countryside with a small number of dwellings scattered along the road, all varying in design and size. Spacing is also varied. Whilst some properties are on relatively spacious plots others are closer together. As such it is considered that a single dwelling 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 itself would be considered at the reserved matters stage.

Taking all these factors into account it is considered, on balance, that subject to design and materials a single dwelling 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.

The closest residential neighbour to the proposed development is the applicants existing dwelling (Conway) located to the north of the application site. The proposed bungalow as indicated on the submitted block plan would be located at least 20 metres from its nearest elevation. As such it would not appear overbearing or result in unacceptable levels of overshadowing.

There are no neighbours immediately to the south of the site.

No details have been submitted with regards to the height/design of the dwelling and position of windows therefore it is difficult to fully consider the impact on neighbouring amenity. This would therefore be assessed at the reserved matters stage.

As such 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.

Parking/Highway safety

In conjunction with Policy 36 of SELLP 2019, Appendix 6 sets out the minimum standards for parking provision upon the use class. Two spaces for dwellings with up to 3 bedrooms and 3 spaces for dwellings with 4+ bedrooms should be provided within the curtilage. It is not clear how many bedrooms the proposed bungalow would have. A maximum of 3no spaces would be required for the proposed dwelling.

The submitted indicative plan shows sufficient space to accommodate at least 3no vehicles for the proposed bungalow as well as the existing dwelling. As such minimum parking standards could be ensured.

In addition, the Local Highway Authority has not raised any objections to the scheme subject to standard informatives regarding the formation of a new access.

The proposal therefore satisfactorily complies with Policies 2, 3 and 36 of the SELLP in this respect.

Drainage

The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. The Environment

Agency's Flood Maps 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. Also, large parts of the South Holland District lie within Flood Zone 3. 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 Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

Large parts of the South Holland district that are near the River Nene lie within Flood Zone 3. As such, the opportunities to undertake the development at an alternative site with a lower flood risk are limited. At this location it is not possible to position the development on higher ground within the proposed site.

The site is located within an Internal Drainage Board catchment and through the operation and maintenance of the pumping stations and the channel system the Board seek to maintain a general standard capable to providing flood protection to agricultural land and developed areas of 1 in 20 and 1 in 100 years, respectively.

The site benefits from defences on the River Nene and River Welland that provide protection during the 0.5% annual probability (1 in 200 chance each year) tidal event including an allowance for climate change. The site is not at risk during a breach of the tidal defences.

The submitted FRA recommends that the floor level of the bungalow is 0.3m above surrounding ground level and there should be 0.3m of flood resilient construction above finished floor.

The development passes the Sequential Test and Exception Test and is therefore suitable for the proposed location.

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).

Onsite rainwater will discharge into a soakaway and foul water is proposed to discharge to a Package Treatment Plant. South Holland Internal Drainage Board has requested ground investigation and infiltration testing to be carried out in order to ensure the proposed drainage strategy is suitable. If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). If the applicant wishes to discharge treated foul water to a watercourse, this proposal will require land drainage consent in line with the Board's byelaws (specifically byelaw 3). Any alterations to a watercourse will require consent from the Board Byelaw 4).

Given the above and subject to the suggested mitigation measures within the submitted Flood Risk Assessment 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) with regard to their provisions on flood risk and drainage.

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 would effectively be located within the countryside as the site is outside any defined settlement boundary therefore it is not acceptable in principle as it does not comply with the requirements set in Policy 1 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

Taking into account the considerations above, the proposed development fails to comply with Policies 1, 2, 3, 4, 10, 11, 17 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019 and Sections 2, 3, 4, 5, 11, 12 and 14 of the National Planning Policy Framework (NPFF), 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 refused under delegated powers.