SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 08 February 2023**

(Author: **Catherine Sutton - Planning Officer)**

Purpose: **To consider Planning Application H23-0970-22**

Application Number:	H23-0970-22	**Date Received:**	04 October 2022
Application Type:	OUTLINE		
Description:	Residential Development - Erection of Single Storey Dwelling		
Location:	Ravens Bank Whaplode St Catherine Spalding		
Applicant:	Mr S Alexander	**Agent:**	Mr S Alexander
Ward:	Whaplode and Holbeach St Johns	**Ward Councillors:**	Cllr A C Beal Cllr P A Redgate

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H23-0970-22

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Referred to Planning Committee from Chairman's Panel.

2.0 PROPOSAL

2.1 The application seeks outline planning permission with all matters reserved for the erection of a bungalow off Raven's Bank, Whaplode St Catherine. The application states that the proposal would be a self/custom build dwelling.

3.0 SITE DESCRIPTION

3.1 The site is located on Ravens Bank in Whaplode St Catherine. The site comprises a rectangular shaped plot and is located outside any defined settlement boundary and within the countryside in policy terms. The immediate area is characterised by mainly open countryside with a small number of dwellings along the road with Little South Holland Drain to the north and open fields to the south. The site is within the Environment Agency Flood Zone 3.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

01 - Spatial Strategy
02 - Development Management
03 - Design of New Development
04 - Approach to Flood Risk
05 - Meeting Physical Infrastructure and Service Needs
10 - Meeting Assessed Housing Requirements
11 - Distribution of New Housing
36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2 - Achieving sustainable development
Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 There is no relevant planning history associated with the site.

6.0 REPRESENTATIONS

6.1 Whaplode Parish Council

Supports - No Comments.

6.2 Cllr A C Beal

I understand that, strictly, this application is outside the permitted red line build area by a matter of a few yards. Bearing in mind that there are properties adjacent to the proposed site also outside the red line, this is really a question of in-filling; with a proposed property that would be in-keeping with the neighbouring properties. As there have been many examples locally and wider within South Holland, where permission has been granted for developments outside of the permitted build line, I do not believe that this application would cause serious harm to the Local Plan if permitted. Accordingly, I would request that this application is considered by the Chairman's Panel, possibly being taken to full planning if they so decide.

6.3 Lincolnshire County Council as Highway Authority and Lead Local Flood Authority

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.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

6.4 LCC Historic Environment Officer

This site lies within an extensive Roman landscape, and this site is surrounded by large areas of cropmarks either side of Ravens Bank. These are undated but are thought to be late Iron Age or Roman in date. Development in this area has the potential to disturb these remains.

Therefore, given this it is recommended that the developer should be required to commission a

Scheme of Archaeological Works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook). This should be secured by South Holland District Council's standard conditions AR01, 02 and 03.

Initially I envisage that this would involve monitoring of all groundwork's, with the ability to stop and fully record archaeological features.

6.5 South Holland Internal Drainage Board

Advises that Drainage Consent may be required and has provided advisories relating to the need for compliance with: Byelaw 3 relating to Discharge of water to a watercourse (treated foul or surface water).

7.0 CONSIDERATIONS

7.1 **Planning Considerations**

7.2 Principle

7.3 The Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.

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

7.5 The SELLP makes no exceptions to its spatial strategy for previously developed land, for existing plots of residential land being subdivided, or for self-build. Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan area. However, with reference to custom and self-builders it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions.

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

7.7 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 relevant development plan in this case is the South East Lincolnshire Local Plan (SELLP), which was adopted in March 2019. The Council has a housing land supply exceeding five years (5.9 years on 31 March 2022).

7.8 The site is located outside Whaplode St Catherine Settlement Limit as defined within the SELLP. It is therefore regarded as being within the countryside in policy terms.

7.9 Policy 1 (Spatial Strategy) of the SELLP indicates that development in the countryside 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.

7.10 The supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The proposal is not considered to meet the provisions of either of these policies. It also does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).

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

7.12 However, open market housing, which this self-build housing would be considered to be, is not a development type that requires a countryside location. This is particularly the case in this instance where the Council has a relatively 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 (5.9 years on 31 March 2022).

7.13 Paragraph 80 of the National Planning Policy Framework (2021) (NPPF) makes provision for new 'isolated' dwellings in the countryside in limited circumstances. However, given case law on the interpretation of the term 'isolated', it is not considered that Paragraph 80 should apply in this instance. There are residential properties immediately adjacent, therefore the site cannot be described as remote or 'isolated'.

7.14 Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that residential development is necessary in this particular location; for example, in conjunction with agriculture, another rural based business or affordable housing.

7.15 Concerning the second element, the relevant factors are addressed below.

7.16 An Economic Role - The proposal would contribute towards housing supply and future occupants may work locally and support local services and make a contribution to the local economy. There may also be employment opportunities associated with the construction, albeit in the short term.

7.17 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.

7.18 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.

7.19 If permitted, the proposal would also encourage further applications of a similar nature in the 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.

7.20 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.

7.21 The proposal constitutes a form of development that would intensify and consolidate existing development within the western part of the village, to the detriment of the area's rural character. The development would encroach into the countryside and would erode the rural feeling on the fringe of the settlement, to the detriment of the prevailing rural character of the area.

7.22 The proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses. These policies are in accordance with advice within the National Planning Policy Framework, 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 and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 seeks to protect the character of the countryside.

7.23 Residential Amenity

7.24 Policies 2 and 3 of the SELLP 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.

7.25 A residential property is situated directly to the west of the site. However, the indicative plan shows satisfactory separation distances could be achieved between the existing properties and the proposed new development generally. It is considered that the site could be developed without materially harming the amenity of nearby residents in terms of overlooking, lack of privacy, overbearing effect, overshadowing, noise, and disturbance, etc.

7.26 It is accepted that there would be some disruption to local residents during the construction stage. However, this would be temporary and could be alleviated by means of a construction management plan if permission was forthcoming.

7.27 The proposal satisfactorily complies with Policies 2 and 3 of the SELLP in terms of amenity.

7.28 Parking/Highway safety

7.29 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. 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.

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

7.31 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.

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

7.33 Flood Risk/Drainage

7.34 Policy 4 of the SELLP is concerned with flood risk management and states, inter alia, that new development within Flood Zones 2 and 3 should pass the sequential test and be accompanied by a site specific flood risk assessment which should propose appropriate flood resistance and resilience measures to ensure the development maintains an appropriate level of safety for its lifetime.

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

(SFRA) as a basis to apply the sequential test. In this respect, the site is within an area of no hazard. The Standing Advice Matrix that accompanies the SFRA recommends that finished floor levels be set at 300mm above ground level, should permission be forthcoming.

7.36 In terms of drainage, Policy 4 of the SELLP indicates that the development should incorporate the use of Sustainable Drainage Systems (SuDS) and demonstrate that adequate foul water treatment and disposal already exists or can be provided in time to serve the development.

7.37 Archaeology

7.38 This site is in an area of the fens that was widely settled during the later prehistoric and Roman periods. Cropmarks indicate the presence of prehistoric or Roman settlement both north and south of the present village, and it is therefore likely that archaeology of a similar nature could exist in this area, for which no site-specific evidence is presently available.

7.39 Insufficient information is available at present with which to make a reliable observation regarding the impact of this development upon any archaeological remains. LCC Archaeology has therefore recommended that further information is required from the applicant in the form of an archaeological evaluation prior to the grant of any permission.

7.40 Planning Balance

7.41 It is recognised that the proposal is deliverable and would help to provide the supply of housing required to meet the needs of present and future generations. It would also contribute towards the local economy and create employment opportunities associated with the construction, albeit in the short term. However, the benefits are outweighed by the harm that the proposal would cause in terms of environmental factors, including the development's effect upon the character and rural locality.

7.42 The proposal constitutes a form of development that would intensify and consolidate existing development within the western part of the village, to the detriment of the area's rural character. The development would encroach into the countryside and would erode the rural feeling on the fringe of the settlement, to the detriment of the prevailing rural character of the area.

7.43 The site is not therefore considered to be a sustainable location for new housing. Consequently, the proposal conflicts with Policy 1 of the South East Lincolnshire Local Plan, 2019, which seeks to direct development to within settlement boundaries and with Local Plan Policies 2 and 3, which require new development to respect the character and appearance of the area. The proposal would also conflict with advice within the National Planning Policy Framework, 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 and also be sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 174 seeks to protect the character of the countryside.

7.44 Conclusion

7.45 The proposal is for residential development in the countryside. Such forms of development are generally unsustainable by definition and contrary to the provisions both of the Local Plan and of National Policy which seek to direct residential development to more sustainable locations and by so doing protect the countryside from harmful and inappropriate development. No special circumstances have been submitted to justify development in this location, and given that the Council can demonstrate a housing land supply far in excess of the 5 year threshold, there are no grounds on the basis of housing need to support development in this location.

7.46 On such basis the proposal would conflict with the provisions of the development plan for South East Lincolnshire and with national policy and planning permission should be refused.

7.47 **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.

7.48 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.

8.0 RECOMMENDATIONS

8.1 **That the application be refused for the reasons set out at Section 9.0 of this report**

9.0 REASONS FOR REFUSAL

1. It is recognised that the proposal is deliverable and would help to provide the supply of housing required to meet the needs of present and future generations. It would also contribute towards the local economy and create employment opportunities associated with the construction, albeit in the short term. However, the benefits are outweighed by the harm that the proposal would cause in terms of environmental factors. The proposal constitutes a form of development that would intensify and consolidate existing development within the western part of the village, to the detriment of the area's rural character. The development would encroach into the countryside and would erode the rural feeling on the fringe of the settlement, to the detriment of the prevailing rural character of the area.

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2. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

   This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

3. The determined plans are:

   Site Location Plan
   Block Plan
   Application Form

Background papers:- Planning Application Working File

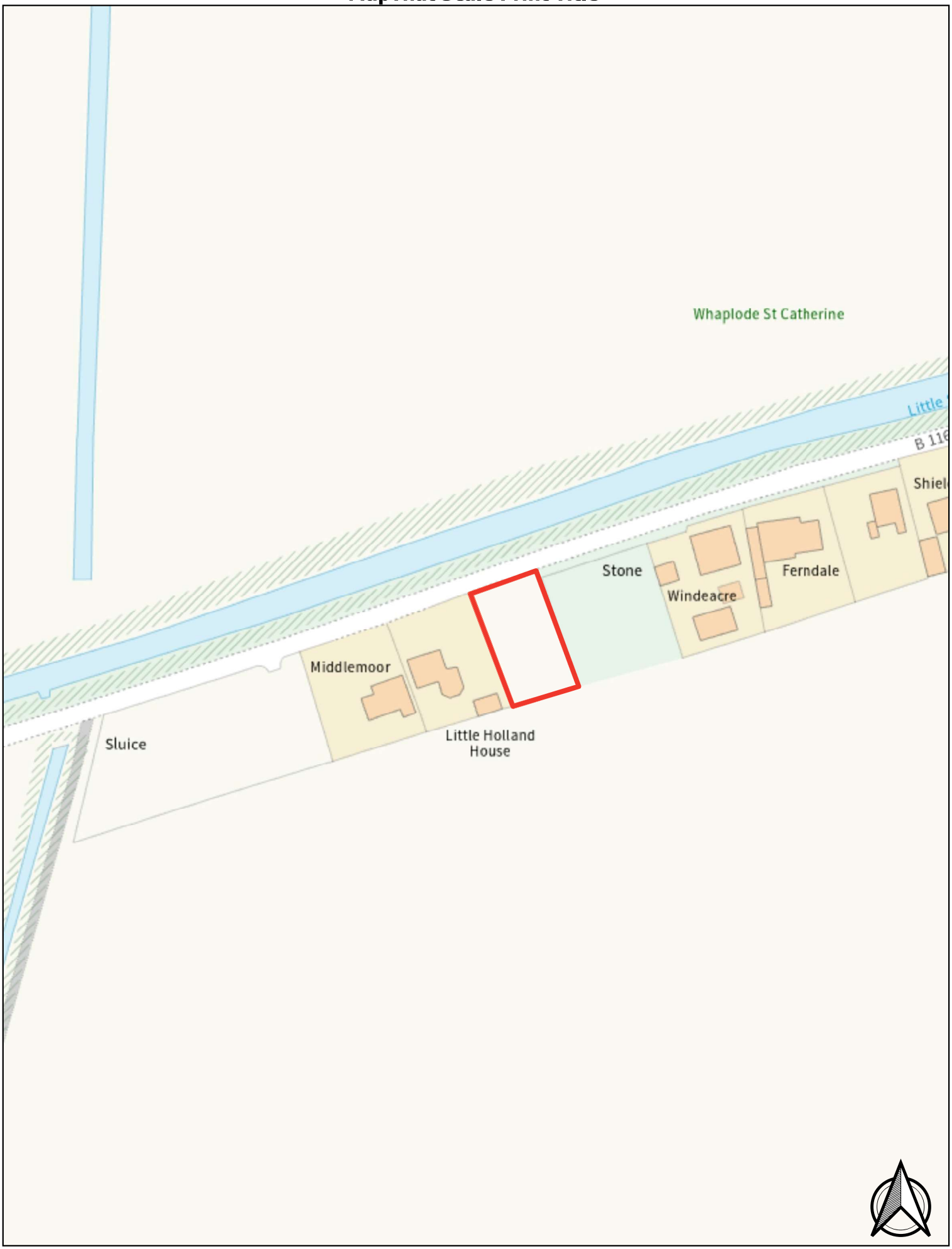
Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title



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MAP SCALE 1:1250
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