

Development Management Delegated Decision Report

B/23/0029



SUMMARY OF APPLICATION			
Application Reference		B/23/0029	
Application Type		Full Planning Permission	
Proposal		Proposed construction of 2no. replacement dwellings	
Location		Land adjacent, White House, Blackjack Road, Swineshead, Boston, PE20 3HH	
Applicant		Mr R Mann	
Agent		Design and Management.co.uk	
Received Date:	24-Jan-2023	Consultation / Publicity Expiry Date:	24-Apr-2023
Valid Date:	22-Feb-2023	Statutory Expiry Date:	19-Apr-2023
Date of Site Visit:	03-Apr-2023	Extension of Time Date:	
Objections received?	Yes		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Cllr Stuart Evans	18-May-2023	19-May-2023	Yes
Cllr Suzanne Welberry	18-May-2023	N/A	Yes
Recommendation	Refuse		
Report by:	Charlie Parry		
Date:	27-Apr-2023		

OFFICER REPORT

SITE AND SURROUNDINGS:

The site to which the application relates is a parcel of land located to the east of residential property 'The White House'. The site has two caravans on the site. Opposite the site is a residential property but the area predominantly consists of agricultural fields. The site is located outside of a recognised settlement boundary and is therefore within the countryside.

The site is within flood zone 3.

DETAILS OF PROPOSAL:

Planning permission is sought for the removal of the two caravans on the site and for the erection of two dwellings. The dwellings both follow the same layout and would be accessed from Blackjack Road.



The main dwellings would be approximately 12.0m in width and approximately 7.1m in depth.

Each dwelling would have a single storey utility that extends the properties by approximately 3.3m and would have a depth of approximately 4.8m.

RELEVANT HISTORY:

No relevant planning history.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2019)

The following policies contained within the South East Lincolnshire Local Plan (2019) (i.e. SELLP) are relevant to this application:

- Policy 1: Spatial Strategy
- Policy 2: Development Management
- Policy 3: Design of New Development
- Policy 4: Approach to Flood Risk
- Policy 22: Replacement Dwellings in the Countryside
- Policy 28: The Natural Environment
- Policy 30: Pollution
- Policy 31: Climate Change and Renewable and Low Carbon Energy
- Policy 36: Vehicle and Cycle Parking

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2021)

At the heart of the 2021 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 2 – Achieving Sustainable Development
- Section 4 – Decision Making
- Section 5 – Delivering a Sufficient Supply of Homes
- Section 12 – Achieving Well-designed Places
- Section 14 – Meeting the Challenge of Climate Change, Flooding and Coast

National Planning Practice Guidance (PPG)

CONSULTATION RESPONSES:

Environmental Health

No objections.

Lincolnshire County Council (Local Highway and Lead Local Flood Authority)

The proposed access for the new dwellings needs to be wide enough to enable two cars to pass in opposing directions. Therefore, please can you ask the applicant to clearly show the new access to be 5.0 metres wide and note on the drawing that the access is to be constructed to LCC Specification and, show the visibility splays in accordance with Manual for Streets.

Black Sluice Internal Drainage Board

Rainfall Runoff

It is understood that the applicant intends to discharge surface water via soakaways. If this is the case, then any soakaways or infiltration systems should be designed and proved in accordance with BRE Digest 365 or other approved code. Evidence that soakaways are suitable for the site should be submitted to the local planning authority for their approval.

Should soakaways prove unsuitable, then the applicant should submit details of an alternative scheme to the local planning authority for consideration, and must have received approval for any such scheme, prior to works commencing on site.

Discharge to any watercourse will require prior written consent from the Board.

Disposal of Foul or Dirty Water

It is understood that the applicant intends to dispose of foul water to both a septic tank and package treatment units.

The discharge of foul or dirty water direct into a watercourse is strictly prohibited.

Any overflow discharge from a septic tank should be to a soakaway only, which should be designed and proved in accordance with BRE Digest 365 or other approved code. Evidence that soakaways are suitable should be submitted to the local planning authority for their approval.

If foul water discharged via a package or bio-treatment unit, then the applicant has two options:

1. If the final discharge is to a watercourse, then the Boards prior written consent is required. The consent of the Environment Agency may also be required for any discharges above 5 cubic metres per day.
2. If the discharge is to soakaways, then any soakaways or infiltration systems should be designed and proved in accordance with BRE Digest 365 or other approved code. Evidence that soakaways are suitable should be submitted to the local planning authority for their approval

Filling in or Culverting Watercourses

There are believed to be watercourses bounding or adjacent to the site, particularly across the highway frontage of the site. The applicant should ascertain whether such a pipe exists and ensure that any future development of the site does not affect this structure.

The applicant is reminded that within common law, the ownership and maintenance responsibility for any watercourse, and any structures within such as piped access culverts, lies with the adjacent landowners. Where a section of watercourse lies wholly within a land or property boundary, or lies alongside a highway, then the land or property owner is considered wholly responsible for the ownership and maintenance of that section of watercourse and any structures within, unless proven otherwise in writing.

If the applicant or their successors intend to pipe or fill any watercourse, now or at any time in the future, then under Section 23 of the Land Drainage Act 1991 the prior written consent of the Board is required for any proposed permanent or temporary works or

structures, including infilling, diversion, or replacement of any existing structures, within any watercourse. This is mandatory.

Site Ground Levels

The existing ground level of the site should not be raised above the level of any surrounding land unless measures are taken, to the satisfaction of the local planning authority, to prevent possible flooding or waterlogging of any neighbouring land or properties.

Swineshead Parish Council

The Members of Swineshead Parish Council have no objection to planning application B/23/0029 and the council encourages plans to help wildlife, the council's planning policy supports swift boxes.

THIRD PARTY REPRESENTATIONS RECEIVED:

There have been three third party representations including two objections.

One of the comments requested that at least 3No. swift nesting bricks are used per building.

The two objection comments are summarised below:

- At no point has this land had a building on it and it is therefore not a replacement
- The caravans are used a maximum of 6 times a year
- Planning in this area has only ever been granted for one dwelling or to extend a property
- This would not be in keeping with the area
- There would be a loss of privacy to the 'White House'
- There have been 2 serious accidents on the road near this site
- The current access is over a grass verge and is not classed as access
- There would be an adverse impact on biodiversity and birds
- The land doesn't have its own address
- The dwellings would have a much greater impact on the character of the area
- Trees would need to be cut down
- There is no permanent residence here.

EVALUATION:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and paragraph 2 of the NPPF requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations with regard to this application are:

- Principle of development
- Impact on the character and appearance
- Impact on the residential amenity
- Impact on flood risk
- Impact on highway safety and parking
- Impact on biodiversity

Principle of Development

In accordance with Inset Map 10, the site falls outside of the settlement boundary for Swineshead. The site is therefore considered to be within the countryside. Consequently, sub-paragraph D of Policy 1 in the SELLP (2019) is relevant and states “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 proposal is described as ‘replacement dwellings’ and as the fact the application is within the countryside Policy 22 of the SELLP (2019) is relevant. Policy 22 of the SELLP states that:

“Proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that:

- 1. the residential use of the building to be replaced (the original building) has not been abandoned;*
- 2. the original building is permanent, has not become derelict and is not the result of a temporary permission;*
- 3. the original building is not of architectural or historic merit and is not capable of repair;*
- 4. the replacement building is of a high standard in terms of architectural detailing and materials of construction;*
- 5. the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality; and*
- 6. the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency.*

Where permission is granted, Permitted Development Rights may be removed in order to control future alterations or extensions that may impact on the appearance and character of the surrounding area.”

The applicant seeks permission for two replacement dwellings within the countryside and therefore the application more specifically relates to Policy 22 than Policy 1. However, it is not considered that the existing caravans on the site can be classed as ‘dwellings’. The two objections raised that the caravans do not have addresses and have not been occupied as a main residence. A review of the site concluded that the caravans do not have address points, have not been rated for council tax and there has never been a caravan site license. Based on the evidence available, there is no established existing residential use on the site and therefore policy 22 cannot be applied in this instance. In any case, Policy 22 specifically requires the building being replaced to be permanent building, and a caravan would not meet this criteria.

Upon presenting this evidence to the applicant they responded with further information that included a caravan invoice and evidence of a planning application for holiday use in 2004 that was returned to the applicant.

The information was not considered sufficient to prove that the site has an existing permanent residential use as a main residence. The documents, at best, appear to attempt to demonstrate an existing holiday use, but this was returned on the basis of no evidence of holiday use either. Therefore, I have no evidence of an existing residential use of the caravans. For the above reasons, the application is not considered to be in accordance with Policy 22 of the South East Lincolnshire Local Plan (2019).

As the proposal is contrary to Policy 22 of the SELLP (2019), the relevancy of Policy 1 becomes more apparent and the application can be assessed as a proposal for new dwellings in the countryside. However, the proposal has not demonstrated that the development is necessary to the location or that it has an economic, community or environmental benefit. Therefore, the proposed development is also in contrary to Policy 1 of the SELLP (2019).

In all, the proposed development does not accord with Policies 1 or 22 of the SELLP (2019) and therefore the principle of development is not acceptable.

Impact on the Character and Appearance

Policy 2 of the Local Plan states that a proposal requiring planning permission will be permitted provided that sustainable development considerations are met. These include size, scale, layout, density and impact on the amenity, trees, character and appearance of the area as well as the quality of its design and orientation. Policy 3 states that all development must create a sense of place by respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area.

Paragraph 130 of the NPPF (2021) states that developments should add to the overall quality of the area, not just for the short-term but over the lifetime of the development. It should be visually attractive and be sympathetic to local character with a high standard of amenity for future existing and future occupiers. Paragraph 134 advocates that, where a development is of a poor design that fails to take the opportunities available to improve the character and quality of an area, planning permission should be refused.

Along the southern boundary of the site are a mix of trees, with low hanging branches that somewhat screen the site. In front of the trees is a low-level timber fence, which wraps around the site. Views of the site are limited from the east due to existing hedging and tress. To the south west of the site, across the road, there is a two-storey red brick dwelling and immediately west there is a two storey dwelling painted white ('White House').

The site is located within the countryside on a road where residential dwellings are sporadically located. Although there are two residential dwellings nearby (across the road and immediately west), the dwellings benefit from large land and no immediate neighbours. As established in the 'principle of development' section, the current use of the site is not considered to be residential. The application therefore proposes to introduce two new dwellings on this site. Notwithstanding the fact that the proposal is within the countryside, where development is restricted, two houses on this plot would not be in

keeping with the built form of the rest of the area. It would over develop the site in the context of the wider area, creating a cramped feel to this parcel of land.

In addition to the above, the development would be contradictory to the character and appearance of the site as it currently is. The site consists of two small caravans and an outbuilding, that have a combined floorspace of approximately 80.5 square metres. The two proposed dwellings each have a floorspace of approximately 107.4 square metres meaning that the combined floor space is approximately 214.8 square metres. This therefore means that proposed development is an approximate 267% increase than the existing in terms of floor space.

This is a direct contradiction to point 1 of Policy 2 in the SELLP (2019), which requires development to meet sustainable development considerations, 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”

Not only does it contradict Policy 2 but it also conflicts with point 6 of Policy 22 that states:

“the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency.”

Besides the fact that the proposed dwellings are an increase in excess of 40% of the original structures, they are not considered to be of exceptional quality or innovative design.

Notwithstanding the lack of evidence of an existing residential use on the site, the proposal would result in an over-development of the site and would not be in keeping with the character and appearance of the surrounding rural area. Consequently, the proposed development is not considered to be in accordance with policies 2, 3 or 22 of the SELLP (2019).

Impact on the Residential Amenity

Policies 2, 3 and 30 of the Local Plan seek to ensure that new development does not significantly impact on neighbouring land uses by reason of noise, odour, disturbance or visual intrusion.

The property most likely to be impacted in terms of their residential amenity is the ‘White House’ to the west of the site. The objections raise concern that there would be a loss of privacy to this dwelling. The closest of the proposed dwellings would be located approximately 25.7m away from this neighbour. Furthermore, there are no proposed windows on the first floor of the closest proposed dwelling. Therefore, whilst the comment is noted, the proposed development is not considered to adversely impact the residential amenity of this property.

There is also not considered to be an adverse impact on the residential amenity of the two proposed dwellings.

The proposal is therefore deemed acceptable in respect of its impact on residential amenity and in accordance with policies 2, 3 and 30 of the SELLP (2019).

Impact on Flood Risk

SELLP Policy 4 seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. It identifies the process by which planning applications in Flood Zones 2 and 3 will be considered, and sets out particular requirements for certain types of applications. Development within all flood zones (and development over 1 hectare in size in Flood Zone 1) will need to demonstrate that surface water from the development can be managed and will not increase the risk of flooding to third parties.

The NPPF and SELLP Policy 4 requires development to demonstrate that it cannot be located on another site at lower risk of flooding by means of a Sequential and Exceptions Test. The site is located within Flood Zone 3. The site has been submitted as a replacement dwelling application and therefore the application has been submitted with the understanding that the sequential and exception test do not apply. However, as previously mentioned, it is not considered that the existing use is residential and therefore the proposal is for new dwellings in the countryside. Therefore when assessing the application sequentially, the application fails as the site is located outside of a settlement boundary and there are allocated locations available (borough wide) within a settlement boundary for residential development. The application should be refused on this basis.

The proposal is therefore not in accordance with Policy 4 of the SELLP (2019) or the NPPF in terms of Flood Risk.

Impact on Highway Safety and Parking

Policy 2 of the Local Plan identifies vehicular access as a sustainable development consideration.

Policy 36 of the Local Plan indicates that all new developments should provide vehicle and cycle parking in accordance with minimum standards set out in Appendix 6.

The Local Highway Authority have been consulted and requested further details proving that the access is wide enough for two cars to pass in opposing directions. The access will need to be 5m in width and there should be visibility splays. This information can be conditioned prior to commencement if the proposal is recommended for approval.

Notwithstanding the above, it should be noted that the plans show an existing access. Following a site visit, there is no indication of an in-use access to the site where the plans indicate one to be. The low wooden fence spans across the full southern elevation.

On balance, the proposal is considered to be acceptable in respect of highway related matters subject to conditions and the creation of a suitable access.

Impact on Biodiversity

Policy 3 of the Local Plan requires the incorporation of existing hedgerows and trees into development proposals, and the provision of appropriate new landscaping to enhance

biodiversity. Policy 28 requires all development proposals to provide an overall gain in biodiversity. Policy 31 requires all development proposals to incorporate measures which promote and enhance green infrastructure and provide a net gain in biodiversity

The proposal does incorporate new biodiversity measures which include new hedging although no details on their type or planting schedule has been submitted. Furthermore, there are several trees along the southern boundary that contribute positively to the surrounding area. No details regarding their protection have been submitted or if any works are required to them to ensure adequate access. This would need to be provided prior to the commencement of any works. Finally there is no net gain in biodiversity measures on the site, which is a requirement of policies 28 and 31. Taking the above in to account, as well as the loss of grassed areas, refusal should be recommended on this basis.

CONCLUSION:

Whilst the proposal is considered to be acceptable in respect of its impact on residential amenity and highway safety. However, for the reasons set out above, the proposal is considered to be unacceptable in respect of matters of principle, impact on the character and appearance of the area, flood risk and biodiversity measures. Consequently, the application is contrary to policies 1, 2, 3, 4, 22, 28, 30, 31 and 36. The planning 'balance' is therefore unfavourable and refusal is recommended on this basis.

RECOMMENDATION: Refuse

REASONS FOR REFUSAL	
1	Insufficient evidence has been provided to establish that the current use of the site is residential or used for permanent human habitation as a main dwelling. The proposal is located in an unsustainable location within the countryside and cannot demonstrate that the development is necessary to the location or that it has an economic, community or environmental benefit. The proposed development is unacceptable in principle and contrary to Policy 1 of the SELLP (2019) and Policy 22 of the South East Lincolnshire Local Plan (2019).
2	The proposal would result in an increase in floorspace of 267%, which is contrary to the 40% limit in Policy 22 of the South East Lincolnshire Local Plan (2019). The application is considered an over-development of the site and by virtue of its size and scale would have detrimental impacts on the character and appearance of the area, contrary to policies 2 and 3 of the South East Lincolnshire Local Plan (2019).
3	The application has failed to demonstrate a satisfactory Sequential Test has been undertaken contrary to Policy 4 of the South East Lincolnshire Local Plan (2019) and the NPPF 2021.
4	Insufficient information in relation to landscaping and biodiversity measures has been provided, therefore, the development, by virtue of its location, scale and size would have harmful impacts on the countryside character and appearance of the area and fails to demonstrate that it would improve biodiversity, contrary to Policies 28 and 31 of the South East Lincolnshire Local Plan (2019).

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
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<u>STATEMENT OF PROACTIVE WORKING:</u>
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In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2021 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.
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