

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager
To: Planning Committee
Author: Mark Simmonds
Subject: Planning Appeals
Purpose: To provide an update on recent Appeal Decisions

Recommendation
a) That the contents of this report be noted

1.0 OVERVIEW

1.1 Since the last report 5 appeal decision(s) have been received, the results are as follows:

Appeals Dismissed: 2
Appeals Allowed: 3
Appeals Part Allowed: 0

1.2 Since the 1st April 2017 198 planning appeal decisions have been received of which 145 have been dismissed, which equates to a success rate of 73.23%

2.0 PLANNING APPEALS DISMISSED

Fairview, Birds Drove, Surfleet	H17-0975-22 - Mr R Brown APP/A2525/W/23/3317157
David Grant	Decision Date: 27th October 2023
<p>The Inspector summed up as follows; “Here there is no established fallback position as the previous permission cannot be implemented. As such, the examples given are not comparable to the situation before me and thus do not add weight in favour of the development. In any event, given my conclusions above, I am not persuaded the development would be an enhancement to that previously approved and thus this also differs from the examples given.</p> <p>24. The Council has raised a concern about precedent. While each application and appeal must be treated on its merit, I can appreciate the Council’s concern that approval of this proposal could be used in support of schemes in similar situations. This is not necessarily a generalised fear of precedent, but a realistic and specific concern given the prevalence of agricultural buildings across the district. Neither Class Q of the GPDO nor LP policies 1 and 23 envisage situations where demolition and replacement of agricultural buildings for new build dwellings is acceptable in principle in the countryside. Allowing this development in these circumstances may make it more difficult to resist further planning applications in similar situations.</p>	

25. I am mindful of the appellant's point that small areas of housing such as this are common in the district. Nevertheless, I must consider the appeal under current development plan policy and what this has to say about development in the countryside. Overall, given the circumstances of the case, neither the previous permission nor the examples given weigh significantly in favour of the proposal.

26. The development would make a small contribution to the housing land supply and make use of a previously developed site. This would provide limited social, economic and environmental benefits. The intention to meet necessary energy efficient or other environmental or building regulation requirements is no more than would be expected.

27. The site is in Flood Zone 3, which is the highest risk of flooding. As I am dismissing the appeal for other matters, there is no need for me to consider this matter further.

28. Similarly, the Council's officer report refers to potential impacts on the living conditions of neighbouring properties, but this is also not referenced in the reason for refusal or expanded on in their appeal statement. Again, as I am dismissing for other reasons, I do not need to consider this matter further. Nevertheless, were I to conclude no harm in this respect, it would be a neutral factor that would weigh neither for nor against the development. A lack of harm in relation to highways or any other planning matter are also neutral factors.

29. I have noted support for the proposal from the Parish Council. However, this does not alter my overall conclusion that the development would conflict with the development plan as a whole or that there are no material considerations that outweigh this conflict.

Conclusion

30. For the reasons given above I conclude that the appeal should be dismissed."

6 Dairy Close, Pinchbeck	H14-1056-21 - Miss C Turnell APP/TPO/A2525/8870
Diane Fairchild Fenton	Decision Date: 8th September 2023
<p>The Inspector found that "despite its relatively small stature its crown can already be seen above the garden fence from Dairy Close. However, as a replacement tree an important consideration is the contribution it has the potential to make to the character and appearance of the area as it matures. Given its location, in time it would be likely to make an important contribution to the mature tree setting of the estate and beyond. It has the potential to become a prominent feature that would be visible not just from the cul-de-sac but from the adjoining Pennyfield, and even glimpsed from Mayfield Close between houses on Dairy Close. The tree consequently contributes, and will continue to contribute, by itself and with other trees, to the mature landscape of the surrounding area.</p> <p>6. Consequently, its removal would prevent this contribution to the character and appearance of the area and perpetuate the loss of amenity that will have resulted from the felling of the tree it replaced. In these circumstances, any reasons to justify removing the tree must be convincing."</p> <p>The Appeal was therefore dismissed.</p>	

Gunthorpe Road Solar Farm, Land South of Gunthorpe Road, Walpole Marsh, Wisbech	H18-0741-21 - Enso Energy Ltd. APP/A2525/W/22/3295140
Lucy Buttery	Decision Date: 29th September 2023
<p>The Inspector found that “Taken together, I have outlined that the appeal scheme includes significant benefits in respect of energy security and the environment regarding the nature of energy generated, as well as biodiversity and landscape enhancements. There would also be some other moderate and limited benefits. This is balanced against the moderate weight to the conflict of the proposal with the development plans in respect of the loss of BMV land. When assessed against the policies in the Framework, taken as a whole, this leads me to an overall conclusion that material considerations indicate the decisions should be taken otherwise than in accordance with the development plans. This would therefore justify the grant of planning permission for the appeals.”</p> <p>The Appeal was therefore Allowed.</p>	

115 Broadgate, Whaplode Drove	H23-0356-23 - Mr & Mrs S Pearce APP/A2525/D/23/3325737
David Grant	Decision Date: 3rd October 2023
<p>The Inspector considered that; “While the appeal building would be considerably larger than the bungalow, both in terms of its floor area and height, it would not be sited immediately adjacent to the host property but would be located on land to its side and at some distance from it. The distance and the location would mean that the building, as extended, would not dominate or overpower the bungalow by its presence.</p> <p>6. Moreover, the presence of mature trees, some of a greater height than the proposed development, would help the addition to assimilate into its setting.</p> <p>7. Therefore, I conclude that the proposed development would accord with policy 2 of the South East Lincolnshire Local Plan 2019 (LP) which aims to ensure that development does not have an adverse impact upon the character and appearance of the area and its relationship to existing development. It would align with policy 3 of the LP and with chapter 12 of the National Planning Policy Framework 2023 which require good design appropriate to the character and appearance of an area”.</p> <p>The Appeal was therefore Allowed.</p>	

175 St John's Road, Spalding	H16-0949-22 - Mr & Mrs Bowman APP/A2525/W/23/3320312
Oscar Patman	Decision Date: 20th October 2023
<p>The Inspector found that; I conclude that the proposed development would not have a harmful effect on the living conditions of occupants of 177 St. John's Road, with particular reference to outlook. It would therefore be compliant with policies 2 and 3 of the South East Lincolnshire Local Plan 2011-2036 (LP), Adopted March 2019. These policies indicate that planning permission will be permitted provided that sustainable development considerations are met including the impact on neighbouring land uses, and development proposals will demonstrate how residential amenity will be secured.</p> <p>9. The proposed development would also be in accordance with paragraph 130 of the National Planning Policy Framework (the Framework) which advises that planning decisions should ensure that developments create places with a high standard of amenity.</p> <p>The Appeal was therefore Allowed.</p>	

4.0 ENFORCEMENT APPEALS DISMISSED

None

5.0 ENFORCEMENT APPEALS UPHELD

None

Background Papers - Planning Application and Enforcement Working Files

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