

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 3 appeal decision(s) have been received, the results are as follows:

Appeals Dismissed:	2
Appeals Allowed:	1
Appeals Part Allowed:	0

1.2 Since the 1st April 2017 210 planning appeal decisions have been received of which 155 have been dismissed, which equates to a success rate of 73.81%

2.0 PLANNING APPEALS DISMISSED

H20-0790-22 Mr M Peace - Dave Gedney

Land Off Draw Dyke Sutton St James	APP/A2525/W/23/3319481
Proposed new power generation, zero carbon self-build experimental home - re-submission of H20-0732-21	Decision Date: 25th June 2024
<p>The Inspector dismissed the Appeal with the main reasons being that;</p> <p>The evidence does not demonstrate that the highest standards in architecture would be attained. For example, there is no evidence that the design team have any particular track record or recognition for design excellence for buildings of this type. Nor is there any evidence that the scheme's design has been recognised through any critical appraisal or peer review of its design that might help to demonstrate its quality. The development could not be considered as truly outstanding and reflecting the highest standards in architecture. There is little in the proposed composition that would help to raise standards of design in rural areas more generally. The development would not result in a design of exceptional quality and therefore not benefit from the Framework's concession for such homes in locations such as this.</p> <p>The development would not result in an outstanding or innovative design which would promote high levels of sustainability, nor help raise the standard of design more generally in the area. Consequently, the development would not benefit from the significant weight the Framework recommends be given to such designs. Experienced at closer quarters, the substantial buildings would intrude on the open character and appearance of the site and its immediate surroundings as a result of its considerable bulk and extent. Whilst the patio and lawn would be situated to the</p>	

rear of the complex away from Draw Dyke, those extensive outside domestic areas with their likely garden paraphernalia would nonetheless introduce a harmful contrast to the undeveloped character of the site and its environs. Even though the effects at a wider landscape scale may be neutral, considered overall the development's effect on the character and appearance of the area would be harmful, contrary to the design, character and appearance requirements of SELLP Policies 2 and 3.

The site lies within Flood Zone 3, an area at highest risk of flooding. The National Planning Policy Framework (the Framework) requires that inappropriate development in areas at risk of flooding should be avoided by steering development away from areas at highest risk. It resists development if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. This is assessed by a sequential test. The Planning Practice Guidance (PPG) points out that the area to apply the sequential test will be defined by local circumstances relating to the catchment area for the type of development proposed. In this case South East Lincolnshire Local Plan, 2019 (SELLP) Policy 4 requires that the sequential test is based on a District wide search of alternative sites that are within settlement boundaries. However, it makes a concession for a reduced search area where there is a specific need for the development in that location. The appellant has not undertaken a detailed exploration of whether or not there are reasonably available sites elsewhere appropriate for the proposed dwelling. They contend that they need to live in this location to be close to dependant relatives with medical needs. However, only very limited information has been provided expanding why it would be essential for the appellant to live in the proposed location, particularly given that their preferred solution would be for the relatives to move into the new house. It is quite understandable that the appellant would want to live in an area close to family and their roots, particularly if they are actively involved in their family's care. However, in the absence of any substantive or convincing evidence, such personal circumstances can only carry very limited weight and are insufficient to warrant no area of search, or a very limited one, such that it would meet the local circumstances concession in SELLP Policy 4. The SELLP anticipates that numerous opportunities for self-build and custom housing would be available within the defined settlement boundaries. It does not go on to differentiate or identify those suitable for self-build or custom housing. Rather SELLP Policy 17 takes the approach of meeting the needs of custom and self-builders as they may come forward.

Even if the appellant were correct that the policies which are most important for determining the application are out of date, the Framework's presumption in favour of sustainable development would not be engaged because the 6 Paragraphs 114 b) and 116 a), b) and c) application of the Framework's flood policies provides a clear reason for refusing the development.

H23-0731-23 Mr & Mrs I Sloan - Jacob Bryan

Adj Victoria Cottage Stockwell Gate North	APP/A2525/W/23/3331314
Proposed Residential Development	Decision Date: 26th June 2024
<p>The Inspector DISMISSED the Appeal for the following reasons; The main issues are the effect of the development on i) the character and appearance of the area; and ii) the living conditions of occupiers of the existing and proposed dwellings with particular regard to privacy.</p> <p>The Inspector concluded; Whilst I have concluded that a dwelling could be designed for the site that would ensure suitable privacy for residents of both the existing and proposed dwellings, the size of the plot would not be commensurate with those surrounding it and due to its constrained width and shape any new dwelling is likely to appear cramped. Consequently, the proposal would not comply with the development plan and the modest benefits of the scheme would not outweigh this.</p>	

3.0 PLANNING APPEALS ALLOWED

H16-0042-23 Mr D Bowden - Catherine Sutton

5 Stonegate Spalding	APP/A2525/W/23/3327301
Change of use of a residential property (C3) to a HMO (C4 or Sui Generis) - re-submission of H16-0737-22	Decision Date: 14th June 2024
<p>The Appeal was allowed for the reasons set out in the Inspector's letter, but in summary the Inspector found that: Suitable living conditions would be provided for occupiers of the proposal; there would not be an unacceptable effect of the proposal on the living conditions of neighbouring occupiers with</p>	

particular regard to noise and disturbance; and the proposal would not give rise to highway safety issues and/or inconvenience for road users and pedestrians in the area.

With regards to Costs - these were awarded against the Council for the following reasons by the Inspector:

Firstly, other than a vague reference to additional comings and goings, it has not been adequately explained why the proposal would result in harmful levels of noise and disturbance in this instance. In the absence of a more comprehensive assessment, factoring in site-specific relationships with neighbouring properties and a comparison between the existing and proposed levels of occupation, the Council's findings in this regard seem generalised and have not been substantiated. Secondly, the Council's case does not include any detailed analysis in respect of living conditions for occupiers of the proposal. Therefore, it is unclear as to which aspects of the accommodation would be unacceptable for the level of occupation proposed, whether this be in qualitative or quantitative terms. The reason for the Council's decision in these respects is further undermined by its acknowledgement that the bedrooms within the proposal would comply with the relevant space standards. Finally, the Council's assertions that the proposal would give rise to a large number of additional vehicles and would impede traffic flow is not supported by any objective evidence. The Council's findings in these regards seem exaggerated given that the capacity of the HMO would increase by a maximum of 3 residents over the current situation. In addition, the Council has not provided any detailed evidence to demonstrate that the appellant's parking survey cannot be relied upon. In the absence of any logical reasoning, the decision of the Council to refuse planning permission on such grounds has again not been substantiated. For the reasons set out, I find that unreasonable behaviour resulting in unnecessary or wasted expense, as described in the Planning Practice Guidance, has been demonstrated. For that reason, a full award of costs is justified.

4.0 ENFORCEMENT APPEALS DISMISSED

None

5.0 ENFORCEMENT APPEALS UPHELD

None

Background Papers - Planning Application and Enforcement Working Files

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