

[7.] Full Planning Permission

S/029/01208/ 23

APPLICANT: Mr. & Mrs. Firth,

VALID: 16/06/2023 **AGENT:** LPC Architectural Design,

PROPOSAL: Planning Permission - Erection of a bungalow.

LOCATION: THE PADDOCK, MAIN ROAD, NEW BOLINGBROKE, BOSTON,
PE22 7LN

1.0 REASONS FOR COMMITTEE CONSIDERATION

1.1 The application has been called into Planning Committee by the Local Ward Member Councillor Jones if recommended for refusal, for the following reasons:

The infill Bungalow is required for the applicant's elderly mother so she may move closer to her son.

This is infill in a village which requires development to survive.

There are no objections from neighbours and it is supported by the Parrish Council.

It is a medium sized village which has just appointed a Mayor.

2.0 THE SITE AND SURROUNDINGS

2.1 The application site comprises the side garden of the property known as The Paddock, a detached bungalow. The site lies on the east side of B1183 Main Road and opposite the junction with Occupation Lane. The site lies on a road which comprises continuous ribbon development along the Main Road.

2.2 There are neighbouring dwellings to the north and south and on the opposite side of the road that also form part of the ribbon development fronting onto Main Road. The surrounding properties are mixed in scale, character and external materials.

2.3 The site currently contains a small timber shed and comprises grass and gravel drive serving The Paddock to the north. The Paddock has two access points.

2.4 The property to the south is a detached house with later single storey additions that extend eastwards and form the boundary to the application site. The gable end to the application site is blank.

2.5 The site lies in Flood Zone 3a (FZ3) which has a high probability of flooding (Flood Zone 3a is land which falls within the 1 in 100-year flood extent (has a 1% chance of a flood occurring in any given year)).

3.0 DESCRIPTION OF THE PROPOSAL

3.1 The proposal is for planning permission to sub-divide the plot

serving the Paddock and construct a detached bungalow. The proposal seeks to use one of the existing accesses that serve The Paddock and the other would be retained for use by The Paddock.

- 3.2 The new dwelling would be set back from the Paddock and the adjoining house to the south. It would have 3 bedrooms, and ample living accommodation. It would be finished in red facing brickwork under a grey concrete tiled roof with header and eaves detail to match the existing bungalow with UPVC windows and doors. It would have a finished floor level set a minimum of 300mm above existing ground levels.

4.0 CONSULTATION

- 4.1 Set out below are the consultation responses that have been received on this application. These responses may be summarised and full copies are available for inspection separately. Some of the comments made may not constitute material planning considerations.

Publicity

- 4.2 The application has been advertised by means of a site notice, an advertisement in the Local Paper and neighbours have been notified in writing.
- 4.3 No third party representations have been received.

Consultees

- 4.4 CARRINGTON AND NEW BOLINGBROKE TOWN COUNCIL - no objections as proposed property would not overlook the neighbouring home to the south and there is already an access for vehicles.
- 4.5 LCC HIGHWAYS OFFICER – The proposal is for the erection of a bungalow, which makes use of the existing access to the host dwelling and parking has been allocated. Therefore, the proposals are not seen to have an unacceptable impact on public highway safety or severe impacts on the road network. – No objections.
- 4.6 ENVIRONMENT AGENCY - No objections, recommends the imposition of a condition to secure finished floor levels to be set 300mm above the existing ground level and flood resilience and resistance measures to be incorporated into the proposed development as stated in the submitted FRA. A Flood Warning and Evacuation Plan is requested.
- 4.7 ELDC ENVIRONMENTAL PROTECTION - The proposed residential development is a sensitive end-use. It is the developer's responsibility to assess and address any potential contamination risks. No supporting information has been provided that

demonstrates the land has not been impacted by contamination and that any potential risks can be reduced to an acceptable level contrary to the YALPAG guidance. A suite of conditions to deal with any on-site contamination is recommended for imposition.

- 4.8 WITHAM FOURTH INTERNAL DRAINAGE BOARD - A Board maintained watercourse exists on the east boundary of the site. Advises of 9m byelaw easement. Board's consent is required to directly discharge surface water to a watercourse (open or piped); to discharge treated water to a watercourse (open or piped) and to culvert, pipe, or bridge any watercourse whether riparian or Board maintained.

5.0 RELEVANT PLANNING HISTORY

- 5.1 There is no planning history directly relevant to the application site.

6.0 PLANNING POLICY

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises of the East Lindsey Local Plan (adopted 2018), including the Core Strategy and the Settlement Proposals Development Plan Document; and any made Neighbourhood Plans. The Government's National Planning Policy Framework (NPPF) is a material consideration.

East Lindsey Local Plan

SP1 – A Sustainable Pattern of Places

SP2 – Sustainable Development

SP3 – Housing Growth and the Location of Inland Growth

SP4 - Housing in Inland Medium and Small Villages

SP10 – Design

SP16 – Inland Flood Risk

SP22 – Transport and Accessibility

SP25 - Green Infrastructure

National Planning Policy Framework (NPPF) National Planning Policy Guidance

7.0 OFFICER ASSESSMENT OF THE PROPOSAL

- 7.1 Having reviewed the submitted information and the relevant planning policies, the key material planning considerations relevant to this application are:

- **Principle of the development and whether the site is a suitable location for housing having regard to flood risk**
- **Impact of the proposal on the character and**

- **appearance of the area**
- **Residential amenity**
- **Highway safety**

Principle of the development

7.2 Policy SP1 (Sustainable Pattern of Places) sets out the settlement pattern which guides the spatial strategy for East Lindsey, in order to guide the distribution, scale and nature of future developments to the most sustainable locations. New Bolingbroke is located within a Medium Village as defined by Policy SP1. The application site is flanked by dwellings on both sides and is considered to be part of the built form of New Bolingbroke and is therefore considered to be located within a sustainable location. Policy SP2 identifies the Councils positive approach that reflects the presumption in favour of sustainable development as set out in the NPPF.

7.3 Strategic Policy 4 (SP4) - Housing in Inland Medium and Small Villages is permissive of housing subject to the following criteria being satisfied:

Housing will also be supported in the medium and small villages where it can conform to the following criteria:

- In an appropriate location* within the developed footprint** of the settlement as infill, frontage development of no more than 2 dwellings.
- Conforms to Clause 2 of Strategic Policy SP25 – Green Infrastructure.

*Appropriate location means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan.

** Developed footprint is defined as the continuous built form of the settlement and excludes individual buildings or groups of dispersed buildings which are detached from the continuous built-up area of the settlement. It also excludes gardens, community and recreation facilities, land used for an active employment use.

7.4 For the purposes of Policy SP4 and assessment of 'appropriate location' the site is within the developed footprint of a settlement and comprises an infill plot of no more than 2 dwellings and has a frontage to a highway. The site is not an important open space that needs to be protected as set out in SP25. The proposal therefore partially satisfies SP4. However, Policy SP4 makes clear that 'appropriate location' means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan.

7.5 The site lies within Flood Zone 3 (High Risk) where policy SP16 (Inland Flood Risk) applies. Policy SP16 contains a number of clauses including:

2: The Council will support housing in areas of inland flood risk, providing all the following criteria are complied with:

- A site is in need of regeneration and is not suitable for a business, leisure and commercial use.
- The site is brownfield and has become empty, buildings have become disused and run down or a combination of both.
- Applications should evidence that they have tried to develop/market sites for a business, leisure or commercial use, this includes active marketing for a minimum of 12 months.

3: Brownfield sites in towns, large villages, medium and small villages that are only partly in areas of flood risk will be supported for housing providing that the development takes place on the area of low flood risk and does not conflict with any other policies for town centre development in this plan.

11. Where required by national planning policy development proposals in areas at risk of flooding must be accompanied by a site-specific flood risk assessment.

- 7.6 The site is garden land within the curtilage of the host property and therefore by definition as set out in the Framework, is not classed as brownfield land. While historically there may have been stable buildings within the site, these are no longer present, and the site is used as garden. There is no evidence the site is in need of regeneration nor has any evidence been provided of marketing for alternative use, though it is accepted that given the location and proximity of adjoining dwellings a commercial enterprise here may not be appropriate. The proposal fails to satisfy criteria 2 and 3 of policy SP16.
- 7.7 The NPPF requires that inappropriate development should be avoided in areas at risk of flooding by directing development away from areas at highest risk. It sets out a sequential test to steer new development to areas with the lowest risk of flooding. Only where there are no reasonably available sites at a lower risk of flooding, (i.e FZ1 or FZ2) should FZ3 be considered. If the sequential test demonstrates that it is not possible for the development to be located in zones with a lower risk of flooding, then the exception test may have to be applied, which is the case for residential development.
- 7.8 The Planning Practice Guidance (PPG) adds that when applying the sequential test, a pragmatic approach on the availability of alternative sites should be taken. The Framework does not set out specific parameters for the search radius to be used in conducting sequential test, but the PPG advises that the area within which to apply the sequential test will be defined by local circumstances relating to the catchment area for the type of development proposed. Housing is a form of development found across the whole district that, in general, does not have a need to locate in a flood risk area. The approach of the aforementioned development

plan policies recognises this and seeks to limit development in the most at risk areas.

7.9 The planning application is accompanied by a site-specific flood risk assessment (FRA), which includes a sequential test and an exception test. A later addendum to the FRA includes a more in-depth sequential test. The applicants sequential test sets out the parameters of the search and the information sources used. The sequential test is summarised below:

- NPPF Guidance Paragraphs 157 - 179 requires development within areas of high flood risk be determined using a sequential risk-based approach to the location of development to avoid where possible flood risk to people and property and manage any residual risk, taking account the impacts of climate change;
- New Bolingbroke is identified within SP1 as being a medium sized village and therefore SP4 of the Local Plan is of relevance. SP4 of the Local Plan deals with housing in inland medium and small villages and states that within the medium and small villages an appropriate location within the developed footprint of the settlement infill, frontage development of no more than 2 dwellings will be supported. The proposal is for a single dwelling with a frontage to the Main Road and therefore meets the above criteria;
- The whole of New Bolingbroke lies within Flood Zone 3 and therefore it is considered that there are no other sites within the village at a lower risk of flooding than this site. A search of the village reveals that the village is at a risk of flooding to a depth around 300mm deep. Upon investigating the village no single plots have been located as available and an internet trawl of the local Estate Agents has not identified any for sale. Therefore, it is concluded that there is no other land available within the village at a lesser flood depth; and
- The proposed site is located within a settlement and is therefore considered to be a more sustainable location than open countryside.

Based upon the above the applicant concludes that the Sequential test has been satisfied.

7.10 The applicant has justified the limited search radius to New Bolingbroke only due to the connection of the proposed dwelling to the existing dwelling. The suggested local need arises from an older family member wishing to live close to extended family. The sequential test concludes that there are no other sites within the local area that could offer a similar development opportunity in a zone of lower flood risk.

7.11 In order for the Exception Test to be passed, it must be demonstrated that the proposed development will:

- a) Provide wider sustainability benefits to the community that outweigh flood risk, and that,
- b) It will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

7.12 In this regard, the applicant states the following:

Part 1: The development would provide some wider sustainability benefits to the community through a contribution (albeit small) towards housing supply for New Bolingbroke, and other benefits including generating employment during the construction period and will ultimately provide wider sustainability benefits to the local community in supporting the existing local and surrounding facilities, in neighbouring villages, helping their long term viability.
Part 2: The flood risk assessment has been assessed by the EA who has no objection subject to the finished floor levels being set no lower than 0.3 metres above ground level, with solid floor construction, raised electric sockets and registration with the EA'S Flood warning system. These elements make the development safe for its lifetime and satisfies the requirements of the second part of the exception test.

7.13 Neither the NPPF nor the Local Plan detail exactly how the sequential test search areas should be defined, but it is considered appropriate to consider the immediate settlement and the surrounding settlements as a starting point. The sequential test provided by the applicant does not look at alternative sites outside of New Bolingbroke however, it is considered that the sequential test area should also consider as a minimum the closest large and medium A16 villages where there are suitable alternative sites available for housing development. Both Sibsey and Stickney have a substantial number of approved but undeveloped sites and no evidence is given of any attempt to explore their availability. The Sequential Test is therefore not considered to have been passed.

7.14 The Exception Test would only apply where the Sequential Test is passed. As it is considered that the sequential test has not been passed, it is not necessary to address the exception test. However, for completeness an assessment of this is also provided here.

7.15 The first part of the exception test requires that the development demonstrates that it would provide wider sustainability benefits to the community that outweigh the flood risk. The proposal would make a very limited contribution to housing supply and support for existing local facilities, and it would create a small number of jobs, particularly during the construction process. Notwithstanding these minor benefits, the proposal for a single dwelling in this location would not provide any wider sustainability benefits to the community that would outweigh the flood risk issue, such as an overall reduction in flood risk to the wider community through the provision of, or contribution to, flood risk management

infrastructure. The first part of the exception test therefore fails.

- 7.16 The second part of the exception test requires that the development demonstrates that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, reducing flood risk overall. The FRA indicates that the primary risk of flooding is fluvial and groundwater; the risk of flooding from all the other sources is considered to be low. The FRA states that flood resilient construction and flood protection measures should be employed as recommended within the FRA. Other recommendations include the development being raised 300mm above existing ground level, a suitable surface water drainage system designed in accordance with the SuDS hierarchy, and for the site owner to sign up for the EA Flood Warning Service.
- 7.17 Given the evidence it is considered that the development would pass the second part of the exception test, subject to it following the recommendations outlined within the FRA. However, although the proposal would satisfy the second part of the exception test, the Framework is clear that both elements need to be satisfied for development to be permitted. Accordingly, the proposal does not pass the exception test.
- 7.18 While the Environment Agency has not objected to the proposal, this is a neutral matter, rather than one that carries positive weight for the development as it is not within the remit of the EA to comment on the application of the sequential test or the first part of the exception test. Moreover, it does not negate the need for the development to be assessed against the sequential test and relevant policies of the ELLP and the Framework.
- 7.19 Accordingly, it is concluded that the application site is not in a suitable location for the proposed development, having regard to the risk of flooding. Therefore, the proposal would be contrary to Policy SP16 and SP4 of the ELLP and the requirements of the Framework.

Character and appearance of the area

- 7.20 Section 12 of the NPPF sets out the national approach to achieving good design through the planning system and states at paragraph 135 that 'good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities'. Paragraph 135 of the NPPF goes on to state that developments should add to the overall quality of the area over the lifetime of the development and be visually attractive as a result of good architecture, layout and appropriate and effective landscaping. Criteria c of paragraph 135 also requires that developments are sympathetic to local character and history including the surrounding built environment and landscape setting. ELLP Policy SP10 relating to design furthers this and sets out how the Council seeks to support well-designed

sustainable development which maintains and enhances the character of the District's towns, villages and countryside by layout, scale, massing, height and density which reflects the character of the surrounding area.

- 7.21 The proposed dwelling would be sited in a row of linear properties, staggered slightly into the site. The external materials and architectural details are proposed to match the host property as well as a material palette used in the immediate area. In terms of layout, the proposed bungalow is in keeping with the surrounding area and would have a similar plot width and shape. It would have a pitched roof at the front of the site. While the bungalow would be raised to meet flood risk requirements, the overall height is commensurate with the dwellings in the immediate and wider vicinity. This would not be overly prominent when viewed from the public realm given the proximity of the neighbours at either side and the location of the dwelling set back from the public realm.
- 7.22 Due to the proposed design and siting of the development, the proposal is not considered to have a detrimental impact on the character and appearance of the area and would sit comfortably within the existing row of properties at Main Road.
- 7.23 The proposal is considered to be compliant with the requirements of paragraph 135 of the NPPF and Policy SP10 of the Local Plan.

Residential amenity

- 7.24 Criteria f of paragraph 135 sets out the need to create places that have a high standard of amenity for existing and future users and allow developments that do not undermine the quality of life, community cohesion and resilience.
- 7.25 Criteria 5 of Policy 10 of the Local Plan states:
"Development will be supported if it is designed to minimise glare and light spillage, it does not unacceptably harm the rural or dark-sky character of a settlement or landscape or any nearby residential amenity; it respects the local historic environment; and it does not unacceptably harm or reduce the safety of highways, cycleways and footways."
- 7.26 No third party representations have been received.
- 7.27 The site is of sufficient size to enable the bungalow to be located on site without having a detrimental impact on future occupiers or occupiers of the neighbouring property to the south. The bungalow has windows in its side elevations. The house to the south has blank walls to the site.
- 7.28 The host property to the north has side facing windows and the development would be sited close to these, however, these are secondary windows with separate sources of light facing east. The

windows in the north elevation of the proposed bungalow would serve a bathroom and bedroom and would not result in harmful intra-overlooking. While the proposed bungalow is close to the host property, it is not considered to lead to loss of amenity that would be significant to such an extent as to warrant refusal of the application.

- 7.29 It is not considered that the proposal would result in a significant detrimental impact on residential amenity.
- 7.30 The proposals are therefore not considered to pose a detrimental impact to the amenities of residential properties or neighbouring land users and are therefore compliant with criteria f of paragraph 135 of the NPPF and criteria 5 of Policy SP10 of the ELLP with respect to amenities of existing and future occupiers.

Highway Safety

- 7.31 Criteria 5 of Policy SP10 also states that development will be supported if it does not unacceptably harm or reduce the safety of highways, cycleways and footways. Criteria 6 of SP22 requires all housing developments to provide a minimum of one car parking space per dwelling except for sites in town centres.
- 7.32 The scheme has been assessed by LCC Highways Department and no objections have been raised. The proposed development would benefit from an existing access which would not be altered. The level of car parking proposed is also considered to be acceptable for a scheme of this size.
- 7.33 The scheme is therefore considered to accord with Criteria 5 of Policy SP10 and criteria 6 of SP22.

Planning Balance

- 7.34 Policies SP1 to SP4 of the East Lindsey Local Plan set out the Councils adopted housing strategy and guides the distribution and scale of future development across the district. In this case, the proposed application site sits within a built-up settlement where the provisions of Policy SP4 apply. The site also lies within Flood Zone 3 in an Inland East Lindsey location where SP16 applies.
- 7.35 The key issue is whether the site is an appropriate location for the proposed development having regard to the development strategy for the area and if there are any material considerations individually or cumulatively that would outweigh any non-compliance with Policies SP16 and SP4.
- 7.36 The applicant has presented a number of material considerations which are summarised and discussed below:
- a) Need for a home/applicant are self-builders:- The proposed

bungalow would be occupied by the applicants' mother who wishes to re-locate to the area to be close to extended family and is unable to find a property to purchase close by.

b) Footpath and sustainable location:-The site is served by a footpath which runs along the built-up village area and is accessible to other settlements via Public Transport. Policy SP4 is a permissive policy to allow for housing growth in smaller settlements and the current proposals provide opportunity for high quality living accommodation which will contribute to the wider sustainability of the settlement by allowing for limited housing growth. It is therefore considered that the site is located within a relatively sustainable location with easy access to shops and services.

c) Not a departure as a whole: The proposal is not a departure from the plan as a whole, as the development is in line with the strategic aims of the Local Plan, including the need to locate housing growth in sustainable locations and there are also good pedestrian and vehicle connections and access to public transport. There are a number of similar applications that have been considered on the basis of their merits, which include:

S/215/01507/23 - Planning Permission - Erection of a bungalow and carport and erection of a new boundary wall at Abbey Lodge, Tattershall Road, Kirkstead- Officer recommendation to approved over-turned by Members at their meeting on Thursday, 7th March, 2024. This site lies outside settlement limits and Members accepted there may be material considerations presented that justify a departure.

N/128/00956/22 - Planning Permission - Erection of a house, and outbuildings that comprises of a garage/car port, store and greenhouse, and construction of a wildlife pond at Land North of Louth Road, North Cockerington, Louth, LN11 7DY -Officer recommendation to approve. This site is in a remote location and was accepted as a self-build property. This application was supported by Members at its 4th April 2024 meeting. The current proposed dwelling is within a built-up village where Policy SP4 is permissive of housing. The proposal is also self-build and would be lived in by the applicant.

d) Compliance with other general Plan policies: The proposal has also been shown to comply with policies relating to ecology, landscape, highway safety, drainage and residential amenity. There are no objections from third parties or consultees who have made comment on the application.

7.37 The framework seeks to generally boost the supply of housing nationwide. The proposal would add a dwelling to the Council's existing stock. This carries some limited weight in favour of the proposal. However, the Council can presently demonstrate a five-

year supply of housing land. While this is not a ceiling to further approvals, there is nothing substantive to indicate a clear need for a dwelling in Flood Zone 3. The existing property could be extended, or an annexe provided to offer the host property the family accommodation needed, without having to resort to building a new house in an area of high flood risk.

- 7.38 The site is located in New Bolingbroke where Policy SP4 permits limited growth subject to meeting all criteria. The site also lies within Flood Zone 3 and there is no evidence to suggest that sequentially preferable sites at a lower risk of flooding are not available in nearby medium or large villages.
- 7.39 The settlement context of New Bolingbroke is acknowledged; however, the proposal does not accord with the compliance criteria of policy SP4 as it is assessed to be an inappropriate location for development due to its location in an area at high risk of flooding. Every application must be assessed on the merits of the case and in the applications set out in (c) above that was how the decision were reached. For 1507/23 Members felt the "like for like" reinstatement of a former heritage asset and the visual enhancement this would create at the entrance to Woodhall Spa would outweigh the locational policy objection and they approved the application. For 956/23 Members agreed that the proposal was of a high quality and that the local community had helped influence the resulting design and layout and the applicant met the formal criteria for the development to be classed as self-build. The proposed biodiversity net gain benefits of the proposal were also considered to be exemplary at a time when such requirements were not mandatory. Together all these benefits were considered to outweigh the policy objection to the site location and an approval was given. Both sites were located within Flood Zone One and so neither was in a high flood risk area - had they been the planning decisions may have been different. The proposed development before Members today offers none of the benefits of these earlier applications whilst placing the future occupants at harm from flooding.
- 7.40 The lack of objection to the application in the other respects listed by the applicant above are noted, but do not provide sufficient reason to outweigh the harm from flooding and the non-compliance with the locational criteria of Policy SP4.

8.0 CONCLUSION

- 8.1 The proposal would not be in a suitable location with regards to flood risk and therefore would conflict with Policies SP4 and SP16. The approach to flood risk is consistent with the National Planning Policy Framework and therefore, this conflict is attributed considerable weight against the scheme in the balance.
- 8.2 Overall, the benefits of the proposal, taken together, would not

amount to material considerations which would outweigh the identified conflict with the development plan and would not justify a decision being made other than in accordance with it. For the reasons set out the application is recommended for refusal.

9.0 OFFICER RECOMMENDATION

REFUSE for the following reason:

RECOMMENDATION: Refuse

for the following reasons:

1. The application site is in Flood Risk Zone 3, a high category of flood risk. The application has failed to demonstrate that the proposal passes the Sequential Test and prove that there are no other reasonably available sites for development at a lesser risk of flooding as required by the National Planning Policy Framework which aims to direct new development away from areas of high flood risk to areas of lower flood risk. The proposal would therefore be contrary to paragraphs 165, 168-171 and 173 of the National Planning Policy Framework and to Policy SP16.2 of the East Lindsey Local Plan. Given this policy conflict, and failure of the proposal to pass the sequential test, the application site would not represent a suitable location for housing which would be contrary to Policy SP4 in the East Lindsey Local Plan.