

BOSTON BOROUGH COUNCIL

Planning Committee – 23rd August 2022

Reference No: B/22/0103

Expiry Date: 06-May-2022

Extension of Time: 17-Jun-2022

Application Type: Full Planning Permission

Proposal: Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage

Site: Land to rear of Fern House, Spalding Road, Sutterton, Boston, PE20 2ET

Applicant: Mr Gary Stray, C/O Clive Wicks Associates

Agent: Clive Wicks, Clive Wicks Associates

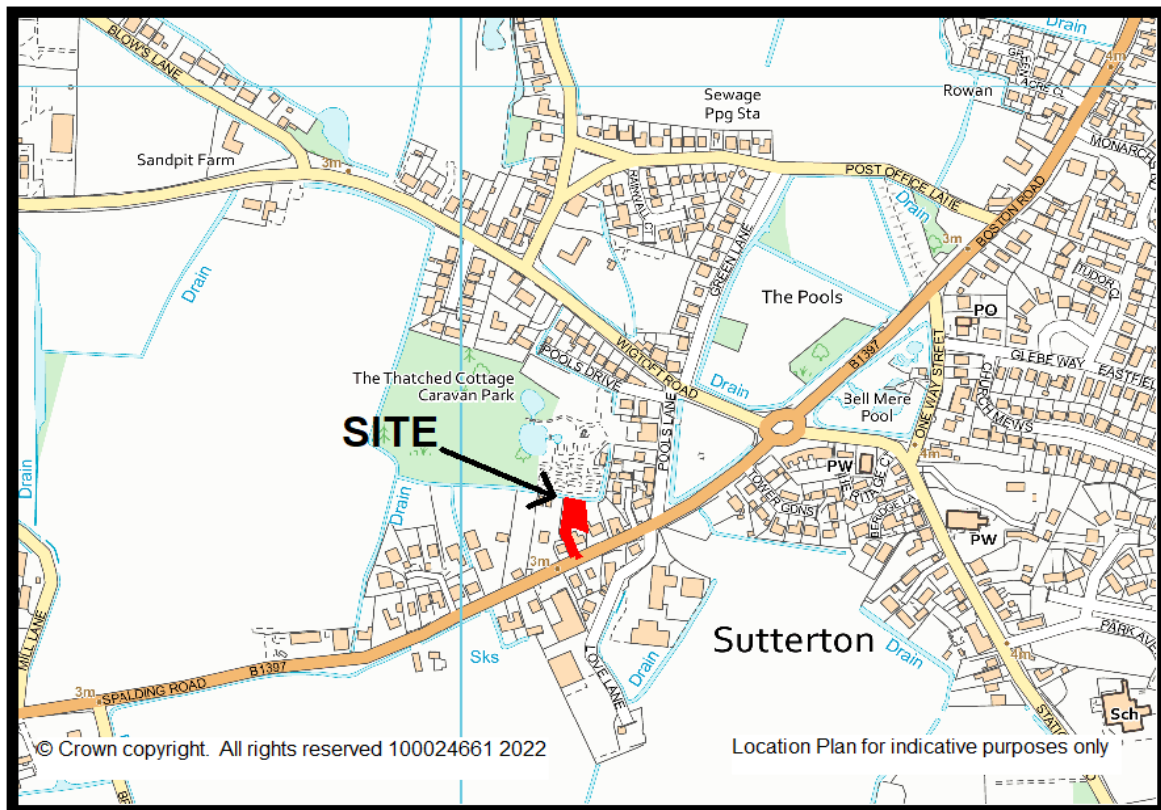
Ward: Five Village

Parish: Sutterton Parish Council

Case Officer: Ian Carrington

Third Party Reps: 1

Recommendation: Refuse planning permission



1.0 Reason for Report

1.1 The application was called to Committee by a ward member, Cllr Spencer, for the following reasons:

To consider

- the layout of the proposed development and its impact on the street scene, and how it conforms to Local Plan policies 2 and 3;
- the mitigation of neighbour amenity impacts, and how the proposal conforms to Local Plan policy 3 and NPPF paragraph 130;
- the mitigation of flood risk impacts and how the proposal conforms to Local Plan policy 4 and Section 14 of the NPPF.

2.0 Application Site and Proposal

2.1 The application site currently consists of a two storey detached house set towards the front of a plot with a frontage of c.18m and a maximum depth of c.60m. A large double garage is situated on the west boundary. There are residential neighbours on either side and opposite fronting the B1397 Spalding Road. The area is primarily residential in character, with some non-residential premises including an agricultural machinery supplier to the west and a fish and chip shop and GP surgery to the east.

2.2 To the north is land on which permission was granted 2017 for change of use to a touring caravan site (20 caravans) plus excavation of fishing lake, erection of WC/wash facility building, new internal roads and parking areas and associated landscaping.

2.3 The site and the surrounding area are flat. The location is in Flood Risk Zone 3a (FRZ3), and is also within the Coastal Hazard Zone with part of the site being categorised by the Environment Agency as Danger For Some and part categorised as Danger For Most.

2.4 The scheme is formally described as 'Erection of one pair of semi-detached single storey dwellings including associated site works & alteration & improvements to the existing vehicular access following demolition of existing double garage'. This would see the existing plot divided and the large detached garage removed, and the new dwellings erected in what is now the back garden. Access for these would be along the western boundary through the area now occupied by the garage with some improvements being made to the highway access point.

3.0 Relevant History

3.1 Pre-application advice regarding a development of three two storey dwellings to be sited in the rear garden and subdivision of the parent house was given under PENQ/21/0060.

3.2 A two storey side and rear extension to the parent dwelling and the erection of the double garage was allowed under B/05/0038.

4.0 Relevant Policy

South East Lincolnshire Local Plan 2019 (SELLP)

- Policy 1 – Spatial Strategy
- Policy 2 – Development Management
- Policy 3 – Design of New Development
- Policy 4 – Approach to Flood Risk
- Policy 5 – Meeting Physical Infrastructure and Service Needs
- Policy 11 – Distribution of New Housing
- Policy 17 – Providing a Mix of Housing
- Policy 30 – Pollution
- Policy 31 – Climate Change and Renewable and Low Carbon Energy
- Policy 36 – Vehicle and Cycle Parking

National Planning Policy Framework (NPPF) (2021)

National Planning Policy Guidance (PPG)

National Design Guide (NDG)

5.0 Representations

5.1 As a result of publicity a representation has been received from the occupant of Field House, the eastern side neighbour:

5.2 The objections and comments can be summarised as follows:

- Loss of privacy. Finished floor levels would be raised by 860mm to 3.66m ODN as a flood mitigation measure. This level is higher than the neighbouring property and existing and proposed boundary treatments will not prevent overlooking. This will be exacerbated by the proposed dwelling being set close to the boundary and behind the neighbour rather than adjacent, hence overlooking the rear garden as well as the neighbouring dwelling itself.
- Character of the area. The properties on Spalding Road are typically sited on large plots and are adjacent to the road. This would mean the proposed development is not in keeping with the existing character of the properties in the vicinity.
- Compliance with local and national planning policies. The proposal is in an area at high risk of flooding and has not demonstrated that no site at lower risk is available, hence not according with the sequential principle. The development of two dwellings will not generate a materially significant economic or social benefit to the area and is too small in scale to significantly support local facilities.
- There is already a recently approved development for approximately 240 dwellings off Spalding Road and this means that the provision of an extra 2 dwellings will have no significant benefit in terms of economic or social factors. It would also suggest that any local need for housing within the village boundary will also be met.
- Flood risk to nearby properties. No details are provided of the means by which displacement of water to nearby properties will be prevented. In

addition, if the landscaping of the property is used to accommodate the FFL of 3.66m ODN, then the site the proposed dwellings are sited on, would be higher than Field House and Fern Cottage, and may mean they are at increased risk of surface run off.

- Existing garden wall. Concern that existing and old brick boundary wall may be damaged and no indication as to how proposed new boundary fence would work with existing wall.

6.0 Consultations

- 6.1 Sutterton Parish Council - objects - 'The application was discussed at the recent Parish Council meeting, objections were raised regarding possible back yard development and the exact area of the village envelope'.
- 6.2 Lincolnshire County Council Highways/SUDS - 'As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage 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 drainage proposals for this planning application'. LCC requests Highways informatives in event of approval.
- 6.3 Welland and Deepings IDB - no objection but notes that floor levels will be substantially raised and states that 'Provisions should be installed to prevent displacement of water from the development affecting neighbouring properties'.
- 6.4 Environmental Health - 'no objections'

7.0 Planning Issues and Discussions

- 7.1 The key planning issues in the determination of this application are:

- Locational principle of the development
- Flood risk, drainage and the sequential principle
- Design, appearance and local character
- Amenity impacts

Locational principle of the development

- 7.2 Sutterton is classified as a Main Service Centre in Policy 2 of the Local Plan, and associated Inset Map No. 8 shows the site as being within the settlement boundary. In general terms the settlement is considered to be a sustainable location which is in principle suitable for new housing development where development supports the service centre, helps sustain existing facilities or helps meet the service needs of other local communities. However such suitability is subject to other material planning considerations (such as flood risk, design/local character and amenity impacts) being satisfactory, and these are discussed later in this report.
- 7.3 Also material is the fact that policy 11 of the Local Plan allocates land for housing development in Sutterton. The two contiguous allocated sites (Sut009 and Sut028) are nearby to the south and west of Spalding Road with a total area of 13.14 hectares and a notional capacity of 263 dwellings. In addition policy 12 of the Plan gives a Reserve Allocated Site in the village (Sut034) with a capacity of 49 dwellings. At 5.3.2 the Plan states that 'the allocated sites identified on the Inset

Maps are those that are considered to best meet the requirement for each settlement'. The Plan does not rule out windfall sites, but development of such plots will be subject to the constraints of other material planning considerations including those deemed to be satisfied as far as allocated sites are concerned.

Flood risk, drainage and the sequential principle

- 7.4 The application site is described in the submitted Flood Risk Assessment (FRA) as being in Flood Risk Zone 3 with a high probability of flooding. In addition the Environment Agency mapping shows the site to be in the Coastal Hazard Zone with the southern part of the site in the 'Danger For Some' category and the northern part in the 'Danger For Most' category. 'Danger For Some' is described as 'Danger for Some – (i.e. children) Danger Flood Zone with deep or fast flowing water'. 'Danger For Most' is described as 'Danger for Most – Danger Flood Zone with deep fast flowing water'.
- 7.5 Both the NPPF and the Local Plan seek to direct housing development away from areas of higher flood risk and toward areas of lower flood risk. The Framework (paragraph 159 and following) requires the application of a 'sequential, risk based approach' and makes clear that this will be realised through the use of the Sequential Test and where necessary the Exception Test.
- 7.6 The 'Planning Design & Heritage Statement' supporting the application contains a brief section on the Sequential Test. This states that the site 'is the only site which targets the more elderly in society' and no other such sites are available in the village, nor are single plot or small general sites. However the proposal is for two units of market housing – it is not targeted social housing, and the applicant offers no means of ensuring that it would be used by the 'more elderly', nor any justification for placing potentially mobility-impaired individuals in an area of extremely high flood risk. Moreover no supporting search information or other evidence is provided, to validate this assertion and the comments on the Sequential Test are not considered to conform to the thorough and well evidenced process required by the NPPF and Planning Practice Guidance. In addition the guidance does not set a specific search radius, and no justification is offered for restricting the search area to Sutterton when other sites at lower risk of flooding may be available in nearby settlements.
- 7.7 In fact it is not necessary to leave the village to find sites at lower risk of flooding. The Environment Agency mapping reproduced in the submitted FRA clearly shows that the allocated sites on the south side of Spalding Road are at significantly lower risk on the dimensions of Max Hazard, Max Depth and the impacts of a tidal breach, and in consequence are given lower risk classifications by the Environment Agency. Having been through the Local Plan process including an Examination in Public by the Planning Inspectorate, allocated sites are deemed to have passed the Sequential test.
- 7.8 It follows that not only has the Sequential Test not been successfully completed, but that alternative sites at lower risk of flooding demonstrably exist close by. The fact that they are not in the applicant's ownership is immaterial: planning is concerned with the provision of safe housing in appropriate locations and is not concerned with land ownership.

- 7.9 Even if the Sequential Test were to be passed, as a 'more vulnerable' class of use in FRZ3a Planning Practice Guidance requires the scheme to pass the Exception Test. This is in two parts. The first requires effective mitigation of flood risk, and the second requires development to demonstrate a wider community sustainability benefit. Social housing, for example, is considered acceptable in some flood risk areas because it provides a sufficient degree of community sustainability benefit. However two units of market housing (irrespective of notional but unsecured targeting at the elderly) are not considered to have a realistic prospect of negotiating the Test and any benefits from future occupants using local facilities would be on too small a scale to meet the Test's requirements.
- 7.10 Consideration has also been given as to whether any other effects of the proposal would constitute material planning considerations which would outweigh the matter of flood risk. They are discussed elsewhere in this report, but given the weight accorded to flood risk and the protection of life and property in local policy and national guidance it can be stated at this point that no such considerations are considered to apply.
- 7.11 The submitted FRA details flood resilient construction measures which seek to protect the proposed dwellings. Whilst these are noted neither the FRA nor the submitted plans provide details of the means by which the scheme and in particular the requirement to raise the level of a large portion of the plot, will avoid displacing water onto neighbouring properties in the event of flooding from any source. It is noted that a side neighbour and the local internal drainage board both raised this issue, and given the very high level of flood risk on the site and the presence of a water course at the rear of the site this is not a matter which is considered safe to secure by condition – demonstration of the methods to achieve neighbour protection is considered essential at this stage.
- 7.12 In summary it is considered that the proposal would site new dwellings in an area of unacceptably high flood risk without appropriate justification or adequate mitigation, that the Sequential Test has not been passed and hence that the proposal fails to accord with policies 2 (2.7), 3 (3.12) and 4 of the SELLP and with Section 14 of the NPPF.

Design, appearance and local character

- 7.13 Policy 2 (Development Management) of the Local Plan sets out a range of sustainable development considerations that need to be met in order for a scheme to be supported. Policy 3 (Design of New Development) is also important in the assessment of character and layout, given that it also sets out specific design related criteria that a scheme needs to demonstrate to be acceptable.
- 7.14 Policy 2.1 states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically 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.
- 7.15 The proposal is for tandem development, with the two new dwellings set directly behind the parent dwelling, Fern House, in what is currently its back garden. The predominant character of local development is linear, with detached dwellings mostly set in generous plots. There are two examples of development in backland sites in this part of Sutterton, but these are different in character to the proposal.

McLoughlin Way (c.130m west) is a development of one and a half storey detached dwellings and Meadow View is a development of single storey dwellings c.70m to the east. However these are mini-estates in their own right with their own access roads and layouts which do not adversely impact nearby dwellings. There are no instances of the sort of 'tandem' rear garden development in the grain of local development and the proposal is hence contrary to the distinctive character of the locality.

- 7.16 The requirement to accommodate two dwellings and associated parking and amenity space in what is in effect half a back garden results in a cramped layout. The new dwellings extend very close to the sides of the plot, rear amenity space for the future occupants is limited and the west site boundary is dominated by parking spaces. The arrangement does not reflect the typical pattern of existing development and is at variance with the existing character of the locality.
- 7.17 Whilst the position of the new dwellings to the rear of Fern House minimises the impact of the proposal on the street scene, it is nevertheless contrary to the distinctive character of the area and hence contrary to policies 2 and 3 of the SELLP and to Section 12 of the NPPF.

Amenity impacts

- 7.18 The proposal would have an access shared with Fern House onto the B1397 Spalding Road at a point where it is speed limited and has good sight lines in both directions. LCC Highways has no objection to the scheme providing the amended access is constructed to appropriate standards. No adverse impacts on public amenity from highways or other means are considered likely.
- 7.19 Impacts on the amenities of existing neighbours and future occupants are more challenging. Policy 2 (Development Management) and Policy 3 (Design of New Development) of the Local Plan seek to ensure that new development does not have a significant impact on neighbouring land uses, including residential amenity. Policy 2.6 states that 'impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion' is a consideration with regard to sustainable development and Policy 3.11 confirms that residential amenity is a consideration in the assessment of the design of new proposals. These provisions reflect national guidance in the NPPF which at paragraph 130 states that development should result in places 'with a high standard of amenity for existing and future users'.
- 7.20 The distance from the south elevation of the new dwellings to the parent house would be approximately 11.5m and the distance to the nearest point on the eastern neighbour, Field House, approximately 3.5m. Overlooking occurs where there is an inadequate distance and unrestricted views between proposed windows or private garden areas. Direct views between the windows of habitable rooms such as lounges, dining rooms and bedrooms are particularly sensitive. The development raises amenity concerns regarding both future occupants and existing neighbours.
- 7.21 With regard to future occupants, the two new dwellings would have a total of four bedroom windows overlooked by the rear first floor windows of Fern House. Boundary treatments would provide no protection from this upper floor overlooking, and at a range of c.11m the perceived and actual impacts are likely to be oppressive. Such arrangements might be acceptable in city centre locations where urban density can be very high, but are in general alien to new construction in suburban and village sites.

- 7.22 The eastern neighbour, Field House, is closer still. It is noted that there are no habitable windows on the east elevation of the proposal (a single bathroom window could be obscure glazed). However the habitable windows on the south elevation would provide an oblique viewpoint of Field House, and although a 1.8m boundary is proposed its effectiveness would be to some degree reduced by the need to raise the new bungalows by almost 1 metre for flood risk mitigation. The raising of the new dwellings would also increase their massing impact, and notwithstanding the proposed hipped roofs the massing impact experienced from the rear of Field House and especially its rear conservatory and garden would be considerable. There would also be significant overshadowing especially of the garden with a westerling evening sun.
- 7.23 The reduced amenity space left for Fern House is adequate although atypically small for a house of that size in this area (the western side neighbour, The Old Chapel, is an exception but this modern dwelling was built on the plot of a former non-conformist chapel which is very limited in size). An additional negative amenity impact is that of the parking spaces and access immediately west of the parent dwelling which are likely to have an adverse impact on the occupants of Fern House.
- 7.24 It is acknowledged that the current proposal improves on the scheme for three two storey houses plus subdivision of Fern House which was submitted at pre-application. However taking all the above elements together it is considered that the proposal still represents an overdevelopment of the site which is likely to have unacceptably harmful impacts on the residential amenities of future occupants and of neighbours, and hence the proposal is contrary to policies 2 and 3 of the SELLP and to the NPPF with particular reference to paragraph 130.

8.0 Summary and Conclusion

- 8.1 Whilst in general terms Sutterton is considered a sustainable location for new housing development, the specifics of the present case are such that the development fails to satisfy the requirements of the Local Plan and relevant national guidance.
- 8.2 The site is in a very elevated flood risk area within both FRZ3a and the Coastal Hazard Zone. The Sequential Test has not been met, and other sites at lower risk of flooding exist in the vicinity. In addition whilst flood resilience measures are proposed for the new dwellings, the application does not provide evidence that it will be possible to implement the scheme without displacing waters into neighbouring properties, especially in times of flood.
- 8.3 The proposal is for tandem development which is contrary to the established character and grain of the area and would overdevelop the site.
- 8.4 By reason of the form, scale, layout and design of the proposal and the constraints of the site it is likely to have unacceptably adverse impacts on the residential amenities of future occupants and of neighbours through overlooking and massing.

9.0 Recommendation

9.1 It is recommended that Committee refuse the application on the following grounds:

1. The proposal would result in the erection of two units of market housing in an area of unacceptably high flood risk. The proposal is not supported by a successfully completed Sequential Test to demonstrate that sites at lower risk of flooding are not available, when allocated sites which have not been built out are located nearby. The proposal does not demonstrate that it is capable of passing the Exception Test. The proposal does not demonstrate how consequential harm to neighbouring properties through the displacement of water will be avoided, especially in times of flood. The proposal is therefore contrary to policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019 and to Section 14 of the National Planning Policy Framework 2021 with particular reference to paragraphs 152, 159, 161, 162, 163, 164, 165 and 167.
2. The proposal would result in the erection of two dwellings in a tandem location contrary to the grain of the existing built environment and by reason of the form, scale, layout and design of the scheme and the constraints of the site would overdevelop the site. The proposal therefore does not accord with the distinctive character of the locality and is contrary to policies 2 and 3 of the South East Lincolnshire Local Plan 2019 and to the National Planning Policy Framework 2021 with particular reference to paragraphs 126, 130 and 134.
3. The development would, by reason of its form, scale, layout and design and the constraints of the site, have unacceptably harmful impacts on the residential amenities of future occupants and of the occupants of neighbouring dwellings through overlooking and massing. As such the proposal is contrary to policies 3 and 4 of the South East Lincolnshire Local Plan 2019 and to the National Planning Policy Framework 2021 with particular reference to paragraph 130.