

Officers Report

Planning Application No: 141447

PROPOSAL: Outline planning application for 1 no. single storey dwelling with access to be determined and all other matters reserved.

LOCATION: Land to r/o 56 Saxilby Road Sturton-by-Stow Lincoln LN1 2AB

WARD: Stow

APPLICANT NAME: Ms Oliver

TARGET DECISION DATE: 13/10/2020

DEVELOPMENT TYPE: Minor - Dwellings

CASE OFFICER: Martin Evans

RECOMMENDED DECISION: Refuse

This application is reported to planning committee because flood risk and drainage matters are considered to be finely balanced.

Description:

Outline planning permission with access to be determined is sought for the erection of a single storey dwelling. Access would be from Saxilby Road via a private access track.

Matters of layout, scale, appearance and landscaping are all reserved for subsequent approval ("reserved matters")

Access was originally sought to be a reserved matter. However, on the 26th August, the Local Planning Authority requested access details be provided under article 5(2) of the Town & Country Planning (Development Management Procedure) (England) Order 2015 (as amended). The access reserved matter was called in during the course of the application. Vehicular access details are provided.

The site is located within Sturton by Stow and is to the rear of 56 Saxilby Road. The access is shared by other land users to the west and a dwelling.

Relevant history:

None.

Representations:

Sturton by Stow Parish Council: "The Parish Council are concerned that this will increase the risk of flooding in this area which is already well documented."

Residents of 47 Saxilby Road and Meadow Farm make general observations (summary):

- No objection
- A SUDS report should be done as proposal downstream of 141359 so water management needs serious consideration.
- Access is overgrown and in poor condition with narrow usable width making it unsafe for pedestrians and vehicles.
- Track widening is long overdue and welcome but paviour finish is a concern because heavy vehicles use the track. LCC highways must deem the improvements capable of withstanding this.
- Access improvements should be required for the construction phase.

Residents of 45 Queensway object (summary):

- Site is in a hollow and is in a flood area. The site can flood during heavy rain. Anglian Water have said surface water sewers at near capacity.
- Rain comes off the fields and when the drain is full floods 56 Saxilby Road and Queensway. Rain has left voids beneath pavements and bungalows and buildings are sinking and sink holes will be created.
- The proposal will involve land levelling and raising which will increase flooding in Queensway, 56 Saxilby Road and the road itself.

LCC Highways: no objection and recommends two informatives regarding the road not being adopted and works within the highway.

Environment Agency: no comment.

Relevant Planning Policies:

Planning law requires that applications for planning permission must be determined in accordance with the development plan, unless material considerations indicate otherwise. Here, the Development Plan comprises the provisions of the Central Lincolnshire Local Plan (adopted in April 2017); and the Lincolnshire Minerals and Waste Local Plan (adopted June 2016).

Development Plan

- **Central Lincolnshire Local Plan 2012-2036 (CLLP)**

<https://www.n-kesteven.gov.uk/central-lincolnshire/local-plan/>

Relevant policies of the CLLP include:

Policy LP1: A Presumption in Favour of sustainable Development

Policy LP2: The Spatial Strategy and Settlement Hierarchy

Policy LP4: Growth in Villages

Policy LP13: Accessibility and Transport

Policy LP14: Managing Water Resources and Flood Risk

Policy LP17: Landscape, Townscape and Views

Policy LP25: The Historic Environment

Policy LP26: Design and Amenity

- **Lincolnshire Minerals and Waste Local Plan (LMWLP)**

<https://www.lincolnshire.gov.uk/residents/environment-and-planning/planningand-development/minerals-and-waste/minerals-and-waste/88170.article->

The site is not within a Minerals Safeguarding Area, Minerals or Waste site / area. No relevant policies.

National policy & guidance (Material Consideration)

<https://www.gov.uk/government/collections/planning-practice-guidance>

- **National Planning Policy Framework (NPPF)**

The NPPF sets out the Government's planning policies for England and how these should be applied. It is a material consideration in planning decisions. The most recent iteration of the NPPF was published in February 2019. Paragraph 213 states:

"Existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given)."

- **National Planning Practice Guidance**
- **National Design Guide (2019)**

Draft Neighbourhood Plan (Material Consideration)

NPPF paragraph 48 states that Local planning authorities may give weight to relevant policies in emerging plans according to:

(a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);

(b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and

(c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).

Sturton by Stow and Stow Neighbourhood Plan

West Lindsey District Council has approved the joint application by Sturton by Stow and Stow Parish Councils to have their parishes designated as a neighbourhood area for the purposes of producing a neighbourhood plan.

The neighbourhood plan group are now working towards the production of the neighbourhood plan. There is no draft presently in circulation that may otherwise be taken into consideration in the determination of this application.

Main issues:

- Principle
- Design and visual impact
- Residential amenity
- Highways
- Archaeology
- Flood risk and surface water drainage

Assessment:

Principle

Policy LP2 designates Sturton by Stow a medium village, and states that: Unless otherwise promoted via a neighbourhood plan or through the demonstration of clear local community support, the following applies in these settlements:

- they will accommodate a limited amount of development in order to support their function and/or sustainability.
- no sites are allocated in this plan for development, except for Hemswell Cliff and Lea.
- typically, and only in appropriate locations, development proposals will be on sites of up to 9 dwellings or 0.25 hectares for employment uses. However, in exceptional circumstances proposals may come forward at a larger scale on sites of up to 25 dwellings or 0.5 hectares per site for employment uses where proposals can be justified by local circumstances.

For the purposes of policy LP2, 'appropriate locations' means a location which does not conflict, when taken as a whole, with national policy or policies in this Local Plan (such as, but not exclusively, Policy LP26). In addition, to qualify as an 'appropriate location', the site, if developed, would:

- retain the core shape and form of the settlement;
- not significantly harm the settlement's character and appearance; and
- not significantly harm the character and appearance of the surrounding countryside or the rural setting of the settlement.

Policy LP4 establishes the total level of % growth for each Medium Village, and further policy requirements in respect of identifying whether a site would be suitable for development. LP4 permits 15% growth in Sturton by Stow. The latest figures available on the Council's website (Monitoring of Growth in Villages – 24/09/20) shows remaining growth of 7 dwellings.

LP4 sets the following sequential test for site development;

"In each settlement in categories 5-6 of the settlement hierarchy, a sequential test will be applied with priority given as follows:

1. Brownfield land or infill sites, in appropriate locations**, within the developed footprint** of the settlement
2. Brownfield sites at the edge of a settlement, in appropriate locations**
3. Greenfield sites at the edge of a settlement, in appropriate locations**

Proposals for development of a site lower in the list should include clear explanation of why sites are not available or suitable for categories higher up the list.”

The proposal accords with the scale of development of up to 9 dwellings. This is considered to be an appropriate location as defined because it retains core shape and form and does no harm to character and appearance or that of surrounding countryside. There is sufficient remaining growth to accommodate the proposal. This is an infill plot in an appropriate location within the developed footprint of the settlement, as defined, and is therefore within tier one of the sequential test.

The proposal accords with LP2 and LP4. Policies LP2 and LP4 are consistent with the NPPF paragraph 78 requirement for policies to “identify opportunities for villages to grow and thrive” so are attributed full weight. The principle of development is acceptable.

Design and visual impact

Policy LP17 and LP26 require all development must achieve high quality sustainable design that contributes positively to local character, landscape and townscape, and supports diversity, equality and access for all. Section 12 of the NPPF seeks to achieve well-designed places. LP26 is consistent with the NPPF and given full weight.

As scale and appearance are reserved, these matters are to be addressed in detail at reserved matters stage but there is no inherent conflict envisaged because the site is garden land. The access track improvements are adjacent to some large trees but the intervening drainage channel will have prevented root spread such that no harm to trees would arise.

Residential amenity

Policy LP26 requires proposals do not unduly harm residential amenity with consideration to compatibility with neighbouring land uses; overlooking; overshadowing; loss of light; increase in artificial light or glare; adverse noise and vibration; adverse impact upon air quality from odour, fumes, smoke, dust and other sources; adequate storage, sorting and collection of household and commercial waste, including provision for increasing recyclable waste; and creation of safe environments. This is consistent with the requirements of NPPF Paragraph 127 that policies and decision should ensure that developments “f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users” and NPPF paragraph 170 in seeking to prevent new and existing development from contributing to, being put at unacceptable risk

from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability and can be attached full weight.

The indicative layout shows a 19m gap is possible between the north facing elevation and the bungalows to the north. A gap of 25m to 56 Saxilby Road is possible. The garden land to the south would not be harmfully overlooked and 58 Saxilby Road would be screened to some extent by intervening its outbuildings.

Whilst, scale and layout are reserved matters, it is considered that the site can ably accommodate an appropriately scaled property without undue harm to neighbouring amenity.

The impact on residential amenity is acceptable in accordance with Policy LP26.

Highways

Policy LP13 requires well designed, safe and convenient access for all and that appropriate vehicle parking provision is made for development users. This is consistent with NPPF paragraph 108 requiring proposals ensure safe and suitable access to the site can be achieved for all users and paragraph 109 requiring development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety. The policy is therefore attributed full weight.

Access was requested to be considered as part of this application and the proposal now demonstrates an improved 4.15m wide by 10m long area adjacent the highway can be achieved to allow two vehicles to pass each other in the interests of highway safety and convenience. LCC Highways raises no objections with the proposal. There is not considered to be a need to secure this during the construction phase but it can be secured before occupation of the dwelling via condition.

It is considered the proposal provides safe access and sufficient vehicle parking space. The proposal accords with Policy LP13 and the highway impacts are acceptable.

Archaeology

LCC Archaeology has not responded to consultation.

Flood risk and surface water drainage

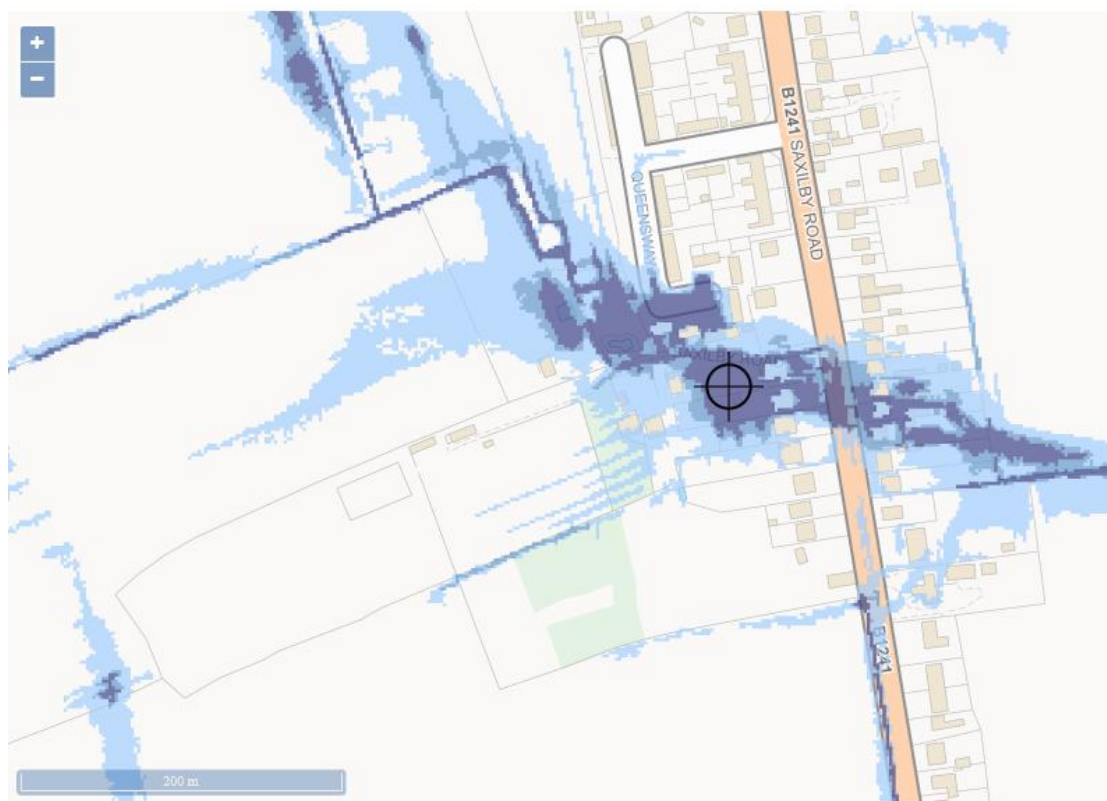
Policy LP14 requires proposals demonstrate that they have incorporated Sustainable Drainage Systems (SuDS) in to the proposals unless they can be shown to be impractical whereas NPPF Paragraph 165 requires this for only major developments. However, there is general consistency in requiring developments do not lead to increased risk of flooding therefore LP14 is given

full weight. The CLLP requires the NPPF flood risk sequential test is carried out which is inherently consistent.

Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.

The site is at low risk from river or sea flooding and accordingly falls within flood zone 1 (low probability - Land having a less than 1 in 1,000 annual probability of river or sea flooding).

However, the Environment Agency's Flood Map for Planning (<https://flood-map-for-planning.service.gov.uk/>) indicates the site is at high risk of surface water flooding.



Extent of flooding from surface water

● High ● Medium ● Low ○ Very low ⊕ Location you selected

However, that mapping system states “Flooding from surface water is difficult to predict as rainfall location and volume are difficult to forecast. In addition, local features can greatly affect the chance and severity of flooding.”

The applicants flood risk assessment author has provided an Environment Agency document entitled “Risk of Flooding from Surface Water” dataset documentation dated May 2016 which states “It is not suitable to be used:... to identify if an individual property will, or will not flood”

The same EA document states “How reliable are the surface water results? The results should not be used to understand flood risk for individual properties. In some places the results should only be used for high level risk assessments – comparing risk between towns and counties – whilst in other places the results are more reliable and can be used to understand risk at street level.”

It is considered that the published high level flood data shows there is a risk of surface water flooding in the area on and around the application site.

Given the indication of some flood risk potential on site, it was considered necessary to require a site specific flood risk assessment. Two FRA’s have been received. The FRA received 18/8/2020 states:

“There is a small ditch to the north of the site that during periods of heavy rainfall could fill with surface water, however due to the topography of the surrounding land, gravity would take any overflow from this ditch away from the site. Information provided suggests that there is a high risk of this, however, following discussions with the host dwelling owner and adjacent landowner, it is believed that the ditch overflowed during periods of excessive rain in 2019 but the actual application site or the access not affected. The applicant has been resident adjacent to the site for in excess of 30 years and none of the adjacent properties have flooded.”

And:

“8.0 Off Site Impact

The proposed development is not on the active flood plain and would not reduce storage capacity. The proposed development will increase the area of hard standing on the site, however with a suitable drainage system and the incorporation of purpose built attenuation, the risks of any potential surface water flooding can actually be reduced.”

There is also reference to flood risk potential on the site in representations received.

The NPPF states “163. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:

(a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;

- (b) the development is appropriately flood resistant and resilient;
- (c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
- (d) any residual risk can be safely managed; and
- (e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.”

There are no lower risk areas on site apparent. Flood resilience and resistance measures are incorporated. Drainage matters could be secured by condition. Residual risk is safely managed. The finished floor level would allow residents to stay in the dwelling in the event of a flood or they could go to the main road where risk is low. The second flood risk assessment received 23/9/2020 considers the site level to be 13.0mAOD with a potential flood depth of 13.3mAOD and a proposed finished floor level of 14mAOD which is 0.70m above the surface water flood level. Paragraph 3.3 of the second FRA states:

“The proposed dwelling will not affect any surface water flow route, but the raising could displace flood water. Only the footprint of the dwelling will be raised which is 120m² and with a flood depth of 0.30m gives a displaced volume of 36m³. The area of the surface water flooding adjacent to the proposed dwelling is approximately 1,920m² less the dwelling footprint leaves an area of 1,800m². The displaced volume of 36m³ over the area of 1,800m² would see an increase in flood depth of 20mm, which can be considered as insignificant, particularly given the indicative nature of the information on the maps.”

Given the indicated high risk of surface water flooding on gov.uk mapping it is reasonable to expect that, in order to pass the flood risk sequential test, the flood risk assessment demonstrates the site is not at risk of flooding. It does not do this.

The FRA demonstrates an increased flood risk for surrounding residential dwellings, most of which are bungalows, of approximately 20mm. This is in direct conflict with paragraph 136 of the NPPF which requires “When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere” and CLLP Policy LP14 which requires “development proposals should demonstrate:....b. that there is no unacceptable increased risk of flooding to the development site or to existing properties”.

It is considered the proposal would also fail the sequential test because Sturton by Stow is at low risk (flood zone 1) of river and sea flooding and only small parts of the settlement are indicated to be at medium or high risk of surface water flooding. It can only be concluded there are ample sites within the village to accommodate additional dwellings that are at lower risk of flooding than the application site. The proposal is contrary to LP14 and the NPPF.

Conclusion and recommendation

The development is acceptable in principle with regard to Policies LP2 and LP4. It will be possible to secure an appropriate design that has an acceptable impact on residential amenity and visual amenity. Access matters are acceptable subject to condition. The flood risk assessments do not disprove the gov.uk mapping indication of high risk of surface water flooding in this area and confirm the indicative footprint of the dwelling would displace sufficient flood water to exacerbate flood depths by 20mm for adjacent dwellings, many of which are bungalows. It is considered the proposal fails the flood risk sequential test because the vast majority of the settlement is at lower risk of flooding and alternative sites could accommodate the proposal. It is recommended that outline planning permission is refused for the following reason:

The flood risk assessments do not disprove the gov.uk mapping indication of high risk of surface water flooding in this area and confirms the indicative footprint of the dwelling would displace sufficient flood water to exacerbate flood depths by 20mm for adjacent dwellings, many of which are bungalows. It is considered the proposal fails the flood risk sequential test because the vast majority of the settlement is at lower risk of flooding and alternative sites could accommodate the proposal. The proposal is contrary to Policy LP14 of the Central Lincolnshire Local Plan and the provisions of the NPPF.

Human Rights Implications:

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

Legal Implications:

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report