

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H01-0368-20 **Applicant:** Hitpreet Singh Virdee

Proposal: Residential Development - approved under H01-0120-17. Removal of Condition 4 relating to maximum number of dwellings and maximum floorspace

Location: 66 Barrier Bank Cowbit Spalding

Terminal Date: 30th June 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
07	Improving South East Lincolnshire's Employment Land Portfolio
11	Distribution of New Housing
18	Affordable Housing
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 3, 4, 5, 12, 14 and 15

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Outline planning permission was granted for residential development (5 plots), with all matters reserved for subsequent approval in June 2017 (ref: H01-0120-17). The application was accompanied by an indicative layout plan which includes a private drive serving plots 4 and 5 and a possible paddock(s) at the rear.

This application is to remove condition 4, which states that "the development hereby permitted in outline is limited to no more than 5 dwellings, and a maximum combined gross floorspace of no more than 1000sqm".

Site Description

The site is located on the northern side of Barrier Bank close to the western fringe of the village. It is presently occupied by a commercial building within the centre of the site. A hedge is located along the site's frontage and a number of trees are situated along the western boundary. It is accessed off a layby. Houses are located to the east and west of the site. Open land is situated to the north.

Relevant Site History

H01-0120-17 - Outline - Residential development (5 plots) - Granted 30 June 2017

H01- 0359-20 - RM - Erection of 5 dwellings - Outline approval H01-0120-17 - Under consideration

Consultation Responses

Cowbit Parish Council - No objections.

Planning Considerations

The site already has outline planning permission for residential development (5 plots). The principle has therefore been established. The main issue in this case therefore is whether condition 4 is necessary in light of current development plan policy and central government advice.

Condition 4 was imposed in the interest of the character of the area, and also because the application was approved without a planning obligation relating to affordable housing. At the time of the approval a development of greater than 1000sqm floorspace would have been expected to make an affordable housing contribution, or demonstrate why it would not be viable, in accordance with national advice contained in the Planning Practice Guidance. The gross floorspace of 1000sq metres referred to within condition 4 was imposed to provide a threshold concerning the requirement for affordable housing.

Policy 18 of the South East Lincolnshire Local Plan, 2019 indicates that market housing sites of 11 or more dwellings (or residential developments with an internal floor area of 1,000sq or more with a requirement of about 25% in South Holland. However, Paragraph 63 of the NPPF, 2019 indicates that the provision of affordable housing should not be sought for residential developments that are not major developments. The definition of "major" for housing development within article 2 of the T & CP (Development Management Procedure) Order 2010 is 10 or more dwellings, or where the site has an area of 0.5 hectares or more. The Authority is applying this threshold and the proposal does not exceed it.

Taking the aforementioned matters into consideration it is considered in this particular case that there is not presently sufficient justification to re-impose part 2 of condition 4 of the previous planning permission (ref. H01-0120-17). Part 1 of the condition is not necessary because it solely defines the terms of the permission, which is specifically for 5 plots.

Conclusion

Condition 4 of outline planning permission ref: H01-0120-17 is not consistent with current central government advice relating to affordable housing and is therefore no longer justifiable.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.