

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H01-0556-23 **Applicant:** Mr N Marshall

Proposal: Change of use of former railway sidings to create larger domestic garden to Plot 1 - approved under H01-0820-22

Location: Land Off Stonegate Cowbit Spalding

Terminal Date: 11th August 2023

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
05	Meeting Physical Infrastructure and Service Needs
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

- 5 - Delivering a sufficient supply of homes
- 12 - Achieving well-designed places
- 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

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

CASE OFFICER ASSESSMENT

PROPOSAL

This is a full planning application for a change of use of former railway sidings to create a larger domestic garden to Plot 1 - approved under H01-0820-22 at Land off Stonegate, Cowbit. A site visit was undertaken on Wednesday the 5th of July.

SITE DESCRIPTION

The site is part of the old railway yard that is no longer needed and is currently overgrown. The site is positioned within the settlement boundary for the settlement as set out in the Inset Map for Cowbit. The site is currently under construction with each dwelling built beyond oversite.

The site sits within Flood Zones 1, 2 and 3 of the Environment Agency's flood map, and a flood risk assessment was submitted with the outline application and informed that application. The site is in a mixture of flood hazard zones with the highest being "Danger for Most", and the maximum flood depth being 1 metre above ground level on the 2115 South Holland Strategic Flood Risk Mapping.

RELEVANT HISTORY

H01-0871-18

Outline - Residential development - up to 45 dwellings, including re-alignment of Mill Drove to Stonegate Road junction - Approved - 15 March 2019.

H01-0823-19

Outline - Residential development for five dwellings - Approved - 21 January 2020.

H01-0820-22

Reserved Matters - Erection of 5 Dwellings - outline approval H01-0823-19 - Approved - 04 November 2022.

H01-1144-22

Condition Compliance - Details of external materials, construction management, storage and disposal of refuse and recycling and boundary treatments (Conditions 6, 12, 14 and 16 of H01-0823-19) - Refused - 20 January 2023.

H01-1162-22

Condition Compliance - Details of cycle storage - (Condition 2 of H01-0820-22) - Approved - 20 January 2023.

H01-1204-22 - On land to East

Full - Residential Development comprising 21 dwellings - Undecided as of 04 July 2023.

H01-0220-23

Condition Compliance - Details of contamination of land or pollution of controlled waters (Conditions 13(i) & 13(ii) of H01-0823-19) - Undecided as of 04 July 2023.

H01-0230-23

Condition Compliance - Details of external materials, construction management, storage & disposal of refuse & recycling and proposed boundary treatment. (Conditions 6, 12, 14 and 16 of H01-0823-19) - Approved - 16 May 2023.

H01-0352-23

Condition Compliance - Details of proposed soakaway system, surface water disposal and foul water disposal (Conditions 9, 10 and 11 of H01-0823-19) - Approved - 01 June 2023.

H01-0558-23

Non-Material Amendment - Erection of 5 Dwellings - outline approval H01-0823-19 - approved under H01-0820-22. Amendments to levels on Plots 1 and 2 to facilitate gravity drainage system - Withdrawn - 08 August 2023.

CONSULTATION RESPONSES

South Holland Internal Drainage Board

Byelaw 3 (Surface Water) - The applicant proposes to discharge surface water to a watercourse. I can confirm the applicant has approached the Board to make an application for consent under Byelaw 3. The Board is currently determining this application under the reference 23_22080_C.

Byelaw 3 (Treated Foul Water) - I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991 - I note the presence of a Board Maintained watercourse (DRN193P2802- B28 Parsons Dyke) adjacent to the northern site boundary. In addition, there is a riparian watercourse to the western boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter these watercourses, or if works are proposed to alter them at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). The Board recommends that adequate space (3-5 metres) is left flat and free from obstruction adjacent to the riparian watercourse in order to enable maintenance by future riparian owners or a designated maintenance company/contractor.

Byelaw 10 - I note that the applicant intends to install drainage infrastructure within 9 metres of the aforementioned Board maintained watercourse. The applicant has approached the Board to make an application for consent under Byelaw 10, which is currently under determination under reference 23_22227_C.

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Principle of development / use
Character
Amenity
Parking provision

EVALUATION

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019,

forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated July 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Principle

Policy 1 of the SELLP directs developments to the most sustainable locations. As Cowbit is defined as a Minor Service Centre, it is therefore deemed to be a sustainable location for development.

The application site is within the settlement boundary of Cowbit, and is previously developed land. The principle of developing this site for residential use has been set by the outline consent H01-0823-19.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and parking provision which are discussed in turn as follows.

Character / Appearance

Section 12 of the National Planning Policy Framework (2021) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area. That they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The proposal is not visible to the public, and being set to the rear of the dwelling, bordered by 1.2 metre high post and rail fencing will not materially impact the visual amenity of the surrounding area.

There is not considered to be a material impact on character and appearance from this proposal which accords with the relevant criteria of Policies 2 and 3 of the SELLP.

Amenity

Paragraph 130 of the National Planning Policy Framework (2021) states that development should 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 where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There is not considered to material impact on amenity from this extended rear garden, due to the size and location of the proposal, which therefore accords with the relevant criteria of Policies 2 and 3 of the SELLP.

Parking / Highway Safety

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2021) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Furthermore, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The proposal does not impact off road parking provision for Plot 1, which remains at two off road spaces. This is in accordance with Appendix 6 of the SELLP which requires that dwellings with three bedrooms or fewer require a minimum of two off road parking spaces.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

PLANNING BALANCE

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

There is not considered to be a material character or amenity impact from the small garden extension to Plot 1. This is due to the siting to the rear of the dwelling behind boundary fencing, and Plot 1 having no immediate neighbours.

CONCLUSION

This application accords with Policies 1, 2, 3, 4, 5, 10, 11, 17, 28, 29, 30, 31, 36 and Appendix 6 of the South East Lincolnshire Local Plan, 2019, as well as Sections 5, 12 and 14 of the National Planning Policy Framework, 2021.

RECOMMENDATION

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.