

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H01-0576-20 **Applicant:** Mr & Mrs I Howes
Proposal: Erection of Dwelling - revised scheme of previous approval H01-0843-17
Location: 6a Backgate Cowbit Spalding
Terminal Date: 23rd November 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
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

NPPF 2019.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

This is a full planning application for the erection of a detached house. The plot is located within the defined settlement limit for Cowbit. Although this application is described as "- revised scheme of previous approval H01-0843-17" by the applicant, this is a freestanding full planning application.

The application proposes a detached dwelling accessed from Backgate. The dwelling would be of a modern design, constructed of white render, timber cladding and aluminium flashing, as well as PPC aluminium doors and windows in dark grey/black. The pitched roof element of the design is proposed to be constructed as a standing seam zinc form finished in grey, and the flat roof elements of felt.

The primary windows to the property would be in the front and rear elevations (west and east), with roof lights at first floor levels within the roof planes of the dwelling (the northern and southern roof planes).

Timber fencing and coated metal fence/gates are proposed. The applicant has clarified that the hedge to the northern boundary is likely to be removed and replaced with fencing. The fence to Arch House, to the north would be a 1800mm fence set over 220mm gravel boards.

The application is supported by a Design and Access Statement, Flood Risk Assessment and solar studies. Since submission the levels across the development have been provided.

The levels on this site and the Finished Floor Level are to accord with the requirements of the submitted Flood Risk Assessment and the architect has confirmed that this also accords with the requirements of the Environment Agency.

SITE DESCRIPTION

The application site is currently garden land belonging to a wide plot which has an existing 2 storey dwelling with integral double garage and an additional detached flat roofed garage to the side.

The proposed dwelling would replace the detached garage. The two storey neighbouring property adjacent the garage has no windows directly facing the site. The tall fencing between the host dwelling and detached garage currently provides a secluded rear garden with no views from the highway.

RELEVANT PLANNING HISTORY

H01-0843-17. Proposed detached house. Decision issued 18-12-17. This decision contained no conditions; rather it listed a reason for refusal. The reason stated:

The proposed development would constitute a cramped and incongruous form of development that would be at odds with the character of the surrounding area. This is because the design and scale of development proposed on this plot fails to take account of its relationship to the character, form and scale of existing buildings nearby, particularly within the context of the existing dwelling on the plot known as number 6 Backgate. The proposal would create a built-up effect to the side and rear of number 6 which would also have an adverse effect on the character and appearance of the locality as a whole.

Although the proposal would contribute towards the supply of housing it is outweighed by the environmental harm that the development would cause in terms of its effect upon the character and appearance of the area. The site is therefore considered to be contrary to Paragraphs 17 and 53 of the National Planning Policy Framework, 2012 which seeks to enhance and improve living space, and good standard of amenity for existing and future occupants of land and buildings while resisting inappropriate development of residential gardens. The proposal is therefore considered contrary to saved policies SG14 and SG17 of the South Holland Local Plan, 2006 which does not allow development which would not make a positive contribution to the architectural and visual quality of its surroundings.

REPRESENTATIONS

Cowbit Parish Council

No objection.

LCC Highways & SUDS Support

No objections, subject to informatives.

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

SHDC Environmental Protection Officer

Requests the full land contamination condition at this location.

Public

No objections or representations received to the original consultation exercise sent on 4 August or to the consultation sent as a result of the revised and additional information sent on 8 October.

It is to be noted for completeness that on the previous application on this site the following responses were received from statutory consultees:

LCC Historic Environment Officer

This site lies within an area of potential archaeology. Within the medieval settlement of Cowbit and also close to other Saxon and early medieval features that lie to the east of the site. However it is likely that the site has undergone disturbance due the present buildings and also from the construction of the former railway to the rear. Given this any archaeology that still remains is unlikely to be legible and it is not appropriate to request archaeological work on this development.

Environment Agency

The EA has no objection so long as the proposed work is carried out in accordance with the approved FRA, especially FFL's to be set no lower than 3.16 AOD.

Note - The submitted FRA sets a FFL that accords with this requirement as this is confirmed by the agent. A condition is suggested to ensure this.

South Holland Internal Drainage Board

No objection, but as the proposed dropped kerb would be within 9 metres of a Board maintained drain, the applicant would need to apply for consent from the IDB.

PLANNING CONSIDERATIONS

- Principle of development
- Character and appearance
- Residential amenity
- Highway matters and parking
- Flood Risk and mitigation
- Contaminated Land
- Archaeology

Principle of development

The application site is within the settlement boundary of Cowbit. It is thus considered that the development of this site for one dwelling would be acceptable in principle, and in line with the policies of the SELLP and the NPPF.

Even if the site did not benefit from the previous decision this is not determinative. It is nonetheless considered that the principle of development is acceptable on the basis that the site is within the settlement boundary and is considered to meet the requirements of Policy 1 of the SELLP.

Character and appearance

This part of Cowbit is characterised by mixed architectural forms and predominantly detached dwellings in comfortable sized garden plots. None are built abutting side boundaries so as to maintain sufficient space between properties. All are set back in the plot.

The proposed development is set further back in the plot than the two properties either side. The proposal is two storey to the front but has single storey middle additions with a middle flat roof section, designed to minimise impact on the adjoining dwellings.

The modern design approach to this proposal appears well thought out; although the palette of materials proposed would not be typical of the locale, it is considered that given the mix of styles in the area, the proposal would not be out of keeping and could offer an interesting counter point to the styles within the area. The form, height and massing of the dwelling would similarly not be out of keeping with the locale. The proposal would therefore accord with Policy 3 of the SELLP.

Residential amenity

Policies 2 and 3 of the SELLP set out criteria for the assessment of development.

This dwelling would have the greatest impact on the host dwelling of No.6 and to the dwelling to the north, Arch House.

The design of the proposed dwelling and the boundary treatments overcome previous concerns regarding the impact of the development on the host dwelling; whilst there are significant glazed doors and windows, the dwelling is designed to look over the garden space and not towards the rear garden of No.6. The proposed dwelling has also been set back within the plot and as such does not create a built up effect to the side of No.6 and the impacts to the rear are significantly reduced due to the mix of heights and levels of the proposed dwelling.

With regard to the impact on Arch House to the north, the design has been amended since the previous decision, to provide a mix of two and single storey elements, to break up the bulk of the dwelling. In addition the roof slope mitigates against a continuous bulk along the boundary.

A levels and sections plan has been submitted that indicates that the dwelling could be constructed on the site and not exceed the height of Arch House.

Looking at the visual impact of the development on Arch House, which is a detached dwelling, the development would have some visual effect, presenting a blank wall to the neighbouring dwelling, however given the width and positioning of Arch House, it is not considered that the impact would be so great that a refusal of consent should be recommended.

The two storey element would be adjacent to the rear garden area of Arch House, but on balance, given the solar studies that have been submitted and the location of the development and that of the adjacent neighbouring dwelling, it is not considered that refusal of this development on the grounds of loss of daylight and sunlight could be sustained.

In order to protect the amenities of Arch House, a condition removing permitted development rights for further rooflights and windows is proposed.

Also, In order to control the impact of the potential removal of the hedging to the northern boundary of the site with Arch House, a fencing and boundary treatment condition is suggested.

It is considered on balance that the proposal accords with Policies 2 and 3 of the SELLP. For all these reasons it is also considered that the development would provide and ensure an acceptable level of amenity for current and future occupiers.

Highway matters and parking

There would be adequate parking on the site for three vehicles to the front of this property, as well

as retaining three parking spaces for the host dwelling. It is considered that this is adequate and accords with the provisions of the SELLP.

LCC Highway Service raises no objections to this development, subject to informatives, to be added to the decision notice.

Flood Risk and mitigation

The application is supported by a Flood Risk Assessment and the development would accord with the requirements of that document, and the requirements of the Environment Agency. It is considered that the proposal accords with Policies 3 and 4 of the SELLP.

Contaminated Land

Although the site is a domestic garden, the EHOs records show that a significant portion of the site is former railway land. Whilst this is currently part of a garden it is unlikely that contamination was considered at the time of the original construction. Like all of the former railway lines in the District they have been identified as potentially contaminated, and identified for further consideration.

For this reason a pre-commencement condition is agreed as follows:

The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures:

i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk-top study and a non-technical summary shall be submitted to the LPA without delay upon completion.

ii) if identified as being required following the completion of the desk-top study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.

iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.

iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2019.

Provided this condition is adhered to in full, the development could accord with Policy 30 of the SELLP.

Archaeology

The impact on archaeology was considered by the previous application and it is not appropriate to request archaeological work on this development, given the views of the LCC Historic Environment

Officer.

Conclusion

For all the above reasons, and on balance, it is considered that the development would accord with the development plan as a whole. It is also considered that the relevant provisions of the NPPF 2019 are complied with and there are no material considerations to justify refusal. Even in the absence of the previous decision, officers consider that the principle of the development is acceptable and permission should be granted.

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.

RECOMMENDATION

The recommendation is for a delegated approval, subject to conditions.

Note: This application was referred to Chairman's Panel on 13 November 2020, where it was agreed the decision could be delegated to officers.