

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 07 September 2022

(Author: Christopher English - Planning Officer)

Purpose: To consider Planning Application H02-0336-22

Application Number: H02-0336-22

Date Received: 28 March 2022

Application Type: S73A CONTINUATION

Description: Proposed residential development, replacement allotments and new cemetery, including woodland burial plots, associated infrastructure and new accesses - approved under H02-0586-21. Modification of Condition 1 to allow amendments to previously approved plans.

Location: Parish Mews Crowland

Applicant: Ashwood Homes

Agent: Ashwood Homes

Ward: Crowland and Deeping

Ward Councillors: Cllr B Alcock
Cllr J R Astill
Cllr N H Pepper

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H02-0336-22>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The planning history of the site merits Committee consideration.

2.0 PROPOSAL

2.1 This is a Section 73 application to modify condition 1 of planning permission H02-0586-21 to allow for amendments at Parish Mews, James Road, Crowland. The amendments solely relate to repositioning the dwellings on Plots 23-30. This is a retrospective application.

2.2 The application is still providing the approved affordable dwelling mix of 12 dwellings: 6 for rent comprising of 4 x 1 bed houses and 2 x 2 bed houses and 6 for shared ownership comprising of 1 x 2 bed house and 5 x 3 bed houses.

2.3 A tree preservation order was made and confirmed in 2019, which protected an ash tree identified as T1 located within the former Allotment Gardens, Off James Road. The bungalow on Plot 28 was constructed 6 metres from this tree. Due to the height of this tree at 11 metres and its spread of up to 7 metres it was very close to the new bungalow. The finished floor level of the bungalow was required to be raised and this raising of ground levels had the potential to reduce the life of the tree which had also been compromised when it was damaged by a contractor in October 2021. Rather than going through the formal process of applying to remove the protected tree the developer instead felled it on 25 January 2022. This application therefore also seeks to agree the layout without the protected ash tree.

3.0 SITE DESCRIPTION

- 3.1 This development has commenced on site and Plots 23-30 have been completed.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise. The following policies of the South East Lincolnshire Local Plan (SELLP, 2019) are considered to be relevant:

01 Spatial Strategy
02 Development Management
03 Design of New Development
04 Approach to Flood Risk
06 Developer Contributions
10 Meeting Assessed Housing Requirements
11 Distribution of New Housing
17 Providing a Mix of Housing
18 Affordable Housing
28 The Natural Environment
30 Pollution
31 Climate Change and Renewable and Low Carbon Energy
32 Community, Health and Well-being
33 Delivering a More Sustainable Transport Network
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards
APPENDIX 8 Developer Contributions for Education Facilities
APPENDIX 9 Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework (NPPF), 2021

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 5. Delivering a sufficient supply of homes.
Section 9. Promoting sustainable transport.
Section 11. Making effective use of land.
Section 12. Achieving well designed places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.
Section 15. Conserving and enhancing the natural environment.

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H02-0586-21. Modification of 106 Agreement to include a mortgagee consent clause (Relating to H02-0771-18). Approved 03-08-22.
- 5.2 H02-0586-21. SEC 73A CONTINUATION. Proposed residential development, replacement allotments and new cemetery, including woodland burial plots, associated infrastructure and new accesses - approved under H02-0900-19. Modification of Condition 1 to allow amendments to previously approved plans. Approved 02-09-21.
- 5.3 H02-0900-19. SEC 73 MODIFICATION. Proposed residential development, replacement allotments and new cemetery, including woodland burial plots, associated infrastructure and new accesses - approved under H02-0771-18 - Modification of Condition 5 relating to

affordable housing. Approved 19-02-20.

- 5.4 H02-0859-19. Details of scheme to deal with contamination (Condition 12 of H02-0771-18). Approved. 28-01-20.
- 5.5 H02-0898-19. Details of conditions 4, 8, 9, 10, 11, 13 & 15 of H02-0771-18. Approved. 06-01-20
- 5.6 H02-0899-19. Details of scheme of affordable housing (Condition 5 of H02-0771-18). Approved. 30-12-19.
- 5.7 H02-1045-19. Details of lighting for roads and footpaths and surface water drainage (Conditions 14 and 19 of H02-0771-18). Approved. 06-01-20.
- 5.8 H02-0771-18 - Proposed residential development, replacement allotments and new cemetery, including woodland burial plots, associated infrastructure and new accesses - approved under H02-0108-18 - Modification of Condition 5 relating to affordable housing. Approved 23-10-18.
- 5.9 H02-0039-19 RESERVED MATTERS. Erection of 49 dwellings and associated works - outline approval H02-0771-18. Approved 28.11.2019.
- 5.10 H02-0108-18 - Proposed residential development, replacement allotments and new cemetery including woodland burial plots, associated infrastructure and new accesses-approved under H02-0259-15. Modification of Conditions 2 and 20 to allow amendments to previously approved plans and Flood Risk Assessment. Approved 25-05-18.
- 5.11 H02-0579-17 FULL Proposed replacement allotments, storage building, new access and parking area. Approved. 07-08-17.
- 5.12 H02-0259-15 - OUTLINE. Proposed residential development, replacement allotments and new cemetery including woodland burial plots, associated infrastructure and new accesses. Approved 11-02-16.

6.0 REPRESENTATIONS

6.1 Crowland Parish Council

Have no objections.

6.2 Lincolnshire County Council Highway Authority and Lead Local Flood Authority

Have no objections.

6.3 North Level District Internal Drainage Board

Have no objections.

6.4 No third party comments have been received during the course of the application.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Layout, Design and Loss of a Protected Tree

7.3 This application seeks permission to formalise the as-built positions of the properties on Plots 23-30. The properties on Plots 23, 24, 25, 26, 29 and 30 would be repositioned marginally and

are not considered to have a material impact on the site as a whole. The property on Plot 27 would move approximately 1.5m north-east and the property on Plot 28 would move approximately 2m north-east. The repositioning of the two properties would not materially impact the character and appearance of the streetscene or surrounding area. Furthermore, the properties would not be repositioned further than the rear elevation of their respective neighbouring properties.

7.4 The housetypes, landscaping and boundary treatments would remain unaltered as a result of this application, other than the removal of the protected tree. The recommendation to grant this retrospective application is not to be taken as condoning in any way the actions of the developer in removing the protected tree and might not otherwise have granted planning permission for the altered location of the dwelling had it resulted in the loss of the protected tree. The Council is currently prosecuting the developer for this action. Outside of the determination of this planning application it has been agreed that the developer will plant two replacement trees on Parish Council land.

7.5 Planning Balance

7.6 Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

7.7 The proposal does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking. Taking into consideration these factors, the proposal is considered to comply with the policies of the South East Lincolnshire Local Plan (SELLP), 2019, listed above, or the advice within the National Planning Policy Framework (NPPF), 2021.

7.8 Conclusion

The are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the proposal and the policies referred to above, subject to it being clear that the recommendation does not condone the actions of the developer in removing the protected tree.

7.9 The application proposal would accord with the provision of Policies of the SELLP and the guidance of the NPPF.

7.10 **Additional Considerations**

7.11 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.

7.12 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.

8.0 **RECOMMENDATIONS**

8.1 **Grant permission subject to conditions set out in Section 9.0 of the report.**

9.0 **CONDITIONS**

1. The development hereby permitted shall be carried out in accordance with the following approved documents and plans:

H02-0336-22

Application form
124-SL-01 Rev O
124-SL-05 Rev B
124-BT-01 Rev Q

H02-0586-21

Application form
Certificate of Ownership - Certificate B
Combined Phase I Desk Study & Phase II Exploratory Investigation D38094 V1.0 Dated 31st October 2018
RM Associates. ADDENDUM FLOOD RISK ASSESSMENT. December 2017 Version 1
Refuge & Recycling scheme LAR 30th August 2019
437.BP.01
1144-1-SK-SK01 A
1144-01-SP01 A
1144-01-SP02 A
CONSTRUCTION METHOD STATEMENT
DRAFT PROGRAMME
GeoDyne Limited. D38094 Remediation Method Statement V1.2
Leflay Design. Landscape Schedules May 2021
AH-JRC-LA1 - 1 of 2
AH-JRC-LA1 - 2 of 2
CRO-SH-LD-AR-'437.LD.P.01' D
CRO-SH-BT-AR-'437.BT.01' E
A902(R)-001
A732(R)-001
DEE-001
AIRE-001
CLYDE-001
LOCK-001
MERE-001
RUTLAND-001
RIBBLE-001
TAY-001
SEVERN-001
124-ELSDEN DETACHED-100 B
124-ELSDEN SEMI-100
124-ELSDEN SEMI-101
124-OAKHAM-100 C
124-SG-001 A
124-TSG-001
124-DG-001
124-DSG-001 A
437.DL.P.01 D
437-S11-00-SI-DR-C-9202 A
437-S11-00-SI-DR-C-9400 D
437-S11-00-SI-CAL-C-9000. Network: Foul Network. S11. 03/02/2020 - Rev B
437-S11-00-SI-DR-C-9450 D
437-S11-00-SI-CAL-C-9000. Network: Storm Network. S11. 07/04/2020
437-S11-00-SI-DR-C-8100 D
437-S11-00-SI-DR-C-8040 B
437-S11-00-SI-DR-C-8101 C
437-S11-00-SI-DR-C-8200 D
437-S11-00-SI-DR-C-8300 E
437-S11-00-SI-DR-C-8301 D
437-S11-00-SI-DR-C-9200 B
437-S11-00-SI-DR-C-9201 C
437-S11-00S1-DR-C-9000 H
437-S11-00S1-DR-C-9001 H
437-S11-00S1-DR-C-9002 H
A538(R)-001
124-MCCP-01 C

124-MSL-01 E
124-HW-8030 D
124-HW-8010 D
124-HW-8020 D
124-HW-8000 D

H02-0259-15

Application Form
1144-01-SP01A

H02-0771-18

Application Form
1144-01-SP02 A
Covering letter 30 July 2018 ref 1144 6 LMS MAG

H02-0899-19

Section 106 dated 12 December 2019
437.AHS.01 B

H02-0859-19

Remediation Method Statement Prepared by GeoDyne Limited - Project No. D38094 V1.1
Dated 20th January 2020

H02-0900-19

Application form
437.BP.01

Reason: For the avoidance of doubt and in the interests of proper planning.

2. Before each dwelling is occupied, the roads and footways providing access to that dwelling, for the whole of its frontage, from James Road, shall be constructed to a specification to enable them to be adopted as highways maintainable at the public expense, less the carriageway and footway surface courses. The carriageway and footway surface courses shall be completed within three months from the date upon which the erection is commenced of the penultimate dwelling.

Reason: To ensure safe access to the site and to each dwelling.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

3. The development hereby permitted shall be carried out in accordance with the measures set out in the RM Associates. ADDENDUM FLOOD RISK ASSESSMENT. December 2017 Version 1, submitted as part of application H02-0586-21, in particular the following measures shall be fully implemented before the property is first occupied:

Finished floor levels of all dwellings shall be set no lower than 2.2mAOD.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

4. The scheme of boundary treatments, landscaping and tree planting shown on drawing refs AH-JRC-LA1 - 1 of 2, AH-JRC-LA1 - 2 of 2, CRO-SH-LD-AR-'437.LD.P.01' D, CRO-SH-BT-AR-'437.BT.01' E and 124-BT-01 J (submitted as part of application H02-0586-21) shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5. No further dwelling shall be commenced before the first fifty metres of estate road from its junction with James Road, including the visibility splays has been constructed.

Reason: To ensure safe access to the site and to each dwelling.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

6. All areas of publicly accessible open space as shown on 124-SL-01 G (submitted as part of application H02-0586-21) shall be laid out and made available for use in accordance with the approved details and shall thereafter be so maintained.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.

This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

7. Details of the means of storage and disposal of refuse and recycling shall be fully implemented in accordance with the approved scheme before the occupation of the first dwelling on site and shall thereafter be retained.

Reason: To ensure that adequate facilities are made available for refuse storage and disposal to avoid pollution, to protect residential amenity, and in the interests of the appearance of the site and the area within which it is set. 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 2 and 3 South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

8. The construction process shall be carried out in accordance with the approved detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke.

Reason: In the interests of the amenity of local residents. 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 2 and 3 South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

9. All lighting utilised in the development shall conform to the approved details set out in drawing 124-HW-8000 D (submitted as part of application H02-0586-21).

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit.

This Condition is imposed in accordance with Policy 2 and 3 South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

10. The approved precautions to be taken to prevent the deposit of mud on public highways by vehicles travelling from the site during construction of the development shall be made available before commencement of the construction of the development and be kept available and in full working order until such time as the Local Planning Authority agrees in writing to their withdrawal or the completion of the development.

Reason: In the interests of highway safety during the construction process. 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 2 and 3 South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

11. The development shall be undertaken in accordance with the approved detailed design of the arrangements for surface water drainage and no building shall be occupied before it is connected to the agreed drainage system.

Reason: To ensure that surface water run-off from the permitted development will not adversely affect, by reason of flooding, the safety or amenity of residents of the permitted dwellings or of neighbouring property.

This Condition is imposed in accordance with Policy 2 and 3 South East Lincolnshire Local Plan, 2019 and the provisions of the NPPF 2021.

12. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

13. This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 dated 12 December 2019 (ref H02-0899-19) and can only be implemented as a consequence of meeting the provisions of that Agreement.

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

