

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H02-0386-25      **Applicant:** Ranbys Corner Ltd.  
**Proposal:** Erection of 5 No. Chalet Bungalows, new access road and relocation of prefabricated single garage to Ranby's Cottage - approved under H02-0217-18. Modification of Condition 2 to allow amendments to previously approved plans  
**Location:** Ranbys Corner 26 Chapel Street Crowland  
**Terminal Date:** 12th June 2025

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### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development
- 30 Pollution
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards

### National Guidance

#### National Planning Policy Framework December 2024

- Section 2 - Achieving sustainable development
- Section 4 - Decision-Making
- Section 5 - Delivering a sufficient supply of homes
- Section 9 - Promoting sustainable transport
- 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

### 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
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

RESIDENTS	3	0	0	1
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## CASE OFFICER ASSESSMENT

### **Proposal**

This is an application made under Section 73 of the Town and Country Planning Act 1990. The application site benefits from planning permission for the *erection of 5 No. Chalet Bungalows, new access road and relocation of prefabricated single garage to Ranby's Cottage* (approved under H02-0217-18).

This application seeks amendments to condition 2 *The approved Plans* namely to:

- Adjust the access road (the road is widened within the confines of the red line boundary)
- Reorientation of Plot 1 (The face of the property is rotated marginally anti-clockwise)

This application also includes an area shown to be for the storage of refuse bags awaiting collection.

### **Site Description**

The site is the former playing field of South View Primary School and now benefits from planning permission to erect 5 number dwellings. It lies to the rear of properties fronting onto Chapel Street and Stricklands Drive. The site will be accessed from the former.

The eastern and southern boundaries are bordered by trees. The western boundary is bordered by wooden fencing for the most part but there is only short wire fencing between the site and the adjacent bungalows on this side of the site. There is wooden fencing and hedging along the northern boundary.

All properties on Stricklands Drive adjacent to the site are bungalows. There is a two-storey dwelling to the west of the site as well as two bungalows.

The site is within the settlement boundary for Crowland as set out in the South East Lincolnshire Local Plan (2019). The previous permission is subject to a S106 agreement.

### **History**

H02-0217-18 - Erection of 5 No. Chalet Bungalows, new access road and relocation of prefabricated single garage to Ranby's Cottage. Approved 12-01-24

**This permission is subject to a section 106 agreement in order to pay monies towards the creation of a MUGA, which was deemed necessary in order to off-set the loss of a playing field. Section 15 of that agreement ensures that where planning permission is issued in relation to the development pursuant to an application under Section 73 of this Act (1990 TCPA Act) the deed shall continue to bind the development in full force. Any permission therefore achieved under this application would not be separated from the agreement.**

### **Consultation Responses**

#### Parish Clerk

CPC have no addition to our previous comments

## Highways & SuDs Support

No Objections - The proposal is for minor amendments to (condition) 2 that already has approval under H02-0217-18. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

## North Level Drainage Board

Please note that North Level District Internal Drainage Board has no comments to make regarding the above planning application.

## **Representations**

The application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). It has been subject to objections, of which the material points are summarised below:

-Chapel Street is a fairly busy road with the recent change of use from the British Legion to a nursery. building more dwellings would severely impact the street ( road ) and residents that Currently live here.

-I wish to object to these plans on the grounds of increased traffic and noise

-With all of these housing developments, does not come any improvements to amenities, so it just makes living here harder - less produce in the small shops, so much traffic, issues with drainage and smells due to increased demands on services which have not been improved, only built upon

A representation has also been received, which states the following points:

1.I have been advised this morning by the owner of Ranby's cottage that the pre-fabricated garage will no longer be moved and remain in its current location. Please confirm that this is the case. Prior to this knowledge I have concerns about the planned new location so close to the Chapel Street road on the grounds of visibility/child safety and also proximity to that road. There is no need for the garage to be located so close to the road as there were plenty of other options on the cottage land.

2.The accessway from the Chapel Street road to the location of the 5 Chalet Bungalows does not appear to be wide enough to accommodate two way traffic. On average homes have three cars. That will be an additional 15 cars a day using this narrow access way plus delivery vehicles. That gives me safety concerns.

3.Please confirm that the new access way to the bungalows will be highway department maintainable at public expense. If not, please confirm that maintenance will be the responsibility of the property developer.

4.The plans are silent on both the height of fencing and the type of fencing on either side of the accessway from Chapel Street down to the bungalows. Please advise on these plans re boundaries. They are currently a certain height which enables my house privacy from adjacent cottage.

5.Waste collection point for the Bungalows. Refuse bag area is inappropriately located on the plans and should be located at the top of the accessway on Chapel Street. That is where I leave my own waste for collection. We have bags, not bins in Crowland. There is a problem with vermin as discussed with Mark. Please approve a more environmentally safe option. Mark offered to pick this point up and discuss with Highways.

*Officer Comments* - These comments/topics are discussed within the officer assessment.

## **Development Plan**

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan,

unless material considerations indicate otherwise. The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland.

The relevant development plan policies are detailed within the report above. The policies and provisions set out in the National Planning Policy Framework, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents. There are no adopted Neighbourhood Plans for the area within which the site is located.

## Evaluation - Section 73

The proposal relates to the variation of Condition 5 of H02-0217-18, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission.

These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant. The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with Condition 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission. Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'. The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended.

It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In the case of *R (Vue Entertainment Limited) v City of York Council*, it was concluded that the decision gives clear support for use of s.73 in respect of changes to conditions which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

## Planning Considerations

The proposal seeks to amend the approved site plan in order to allow some minor changes to the access and the reorientation of plot 1. On the basis of the application type and proposed changes there is no requirement to revisit matters of planning principle. The key considerations therefore for this assessment are:

- Highway Safety
- Environmental Issues/Amenity
- Attachment of previous conditions

### Highway Safety

SELLP 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.

SELLP 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.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The proposed site plan contains a swept path analysis that demonstrates 'fire appliance tracking'. The plan shows that a marginally wider access is required in order to achieve the space. The plan also shows a refuse bag collection area located to the southern boundary of the access. All of these changes are within the red line boundary associated with H02-0217-18.

The Highway Authority have been consulted and have no objections to the proposal. Stating that the changes are minor in effect.

However, the location of the 'refuse bag area' would appear to have potential to block this access somewhat on collection day if not stacked correctly, given the nature of simply leaving the bags in an ad-hoc fashion. A more formalised collection area should be established to prevent the bags falling into the access. Condition 9 of the original permission reserved the details of such a facility. This condition will be reattached.

Comments have been received relating to the width of the access not supporting two vehicles, however this proposal is wider than the access previously approved. This matter is therefore not subject to further assessment in this application. Another point raised relates to the ownership of the drive, this is a private drive and so will not be adopted by the Highway Authority, maintenance therefore is between the developer, future owners and any covenants that may be written in to the ownership contracts. There is also mention of an outbuilding potentially impacting upon visibility, this outbuilding is not altered by this application.

Lastly comments have expressed concerns in relation to vehicular movements, whilst this is a material matter, weight is given to the fact that the development has already been approved, and this application does not increase the number of dwellings nor the bedrooms of these properties. This matter than has already been addressed in previous applications.

Therefore, subject to the (re)attachment of mitigation surrounding the refuse collection the proposal is considered to accord with SELLP Policies 2, 3 and 30.

## Environmental Issues/Amenity

NPPF Paragraph 135f of the National Planning Policy Framework (December, 2024) 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.

SELLP Policy 2 sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

SELLP Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The only change to the dwellings are to plot 1, which is reorientated slightly (anti-clockwise) to allow for service vehicle to enter the site. This has limited additional considerations therefore as regards amenity impacts, through overshadowing/overbearing and visual intrusion, upon neighbouring properties. Especially given that separation distances are retained in line with the previously approved scheme.

The applicant has also proposed the location of a refuse collection area. This is just shown on plan to be an area where bags are left on collection days, this is located to the rear of two properties accessed from Chapel Street.

Whilst Environmental Protection have not made comments, it is likely that leaving the refuse

belonging to 5 number dwellings at the rear of their properties would give rise to pollution effects through odour. It is likely that a more appropriate (fixture/structure) is required to contain the refuse whilst waiting for collection or alternatively, as per condition 9 (of H02-0217-18) details of a private means of waste collection are submitted to and agreed in writing with the LPA.

Representation have been received regarding the boundary treatments. These are and will be again controlled through condition.

Therefore, subject to keeping control over the refuse collection the proposal would accord with SELLP Policies 2 & 30 as well as NPPF Paragraph 135f.

### Other Matters

This is a variation of an existing permission and therefore sits outside of the requirement to demonstrate a 10% net gain for BNG.

A character assessment is not discussed within this report and the orientation of plot 1 is only marginally turned, the dwelling (form/scale/siting) and materials remain unchanged by this application. Fencing details are controlled through planning conditions. The changes under this application are therefore non-material to the already approved scheme.

### Reattachment of Conditions

Conditions relating to a Construction Management Scheme, details of the precautions to be taken to prevent the deposit of mud on public highways by vehicles, land contamination, details of the existing and proposed site levels, details of the means of surface water disposal, full details of the arrangement for private refuse/recycling collection, a scheme of landscaping, details of the proposed boundary treatments, schedule of external materials, a scheme for the provision of bird and bat boxes, protection of retained trees, compliance with the FRA, and water consumption all remain undischarged, or are required to be complied with under H02-0217-18.

These conditions, which have already been agreed, are all relevant and will be reattached to any permission achieved here.

### **Planning Balance**

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

The proposal represents minor alterations to a previously approved scheme. Whilst the changes to the access and reorientation of plot 1 are acceptable, the location and 'type' of the open refuse storage is not considered acceptable and will be controlled through planning conditions.

In this instance then, given the mitigation, there are no material considerations that outweigh the benefits associated with the proposal, as such the planning balance is in support of the development

### **Conclusion**

Taking into consideration these factors, the proposal is considered to accord with Policies 1, 2, 3, 4, 28, 30 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis the proposal is recommended for approval.

### **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.