

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-0886-22 **Applicant:** Churchfield Developments Ltd

Proposal: Residential development - Construction of one detached dwelling

Location: Land Adj 9 Hardwick Close Crowland Peterborough

Terminal Date: 7th March 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
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
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
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 16 - Conserving and enhancing the historic environment

Representations:

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

HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	17	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for 'Residential development - Construction of one detached dwelling', adjacent to 9 Hardwick Close, Crowland. The application has been amended since submission, to revise the original proposal from a pair of semi-detached dwellings to a single detached dwelling.

The submitted plans show a three bedroom dwelling with parking to the front, accessed from Hardwick Close.

The application is supported by a Design & Access Statement incorporating Heritage Impact Assessment, a Flood Risk Assessment and a viability assessment.

Site Description

Crowland is considered to be a Main Service Centre as designated within the South East Lincolnshire Local Plan (SELLP). Within the settlement boundaries of the Main Service Centres development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The proposal site is adjacent to but not within the Crowland Conservation Area. The site sits in the north eastern corner of Hardwick Close and is a grassed area enclosed on three sides by close board fencing. There are two storey dwellings immediately the rear and west, as well as on the opposite side of Reform Street to the east. The site fronts a large partly gravelled, partly tarmacked, area at the end of the cul-de-sac used for parking and turning. The overriding character of the area is residential. Existing development in the area is quite varied in nature.

History

H02-0872-22 (Land adjacent 38 Broadway) - Full - Residential development - Erection of two semi-detached dwellings (refused October 2022)

H02-0408-21 (Land at the Former South View Primary School Albion Street) - Modification of 106 Agreement to amend clauses 1.1 & 1.2 of Schedule 3 to allow up to 80% of the market dwellings to be occupied prior to trigger point (approved March 2022)

H02-0268-21 (Former South View Primary School Albion Street) - Full - Proposed Pump Station Enclosure & Access (retrospective) (approved July 2021)

H02-0075-19 (Former South View Primary School Albion Street) - S73 - Residential development - erection of up to 22 dwellings - approved under H02-0405-17. Removal of Condition 4 relating to affordable housing (approved July 2020)

H02-1020-19 (Former South View Primary School Albion Street) -Reserved Matters - Erection of 3 dwellings and associated works (Plots 8, 9 and 10) Outline approval H02-0405-17 (approved December 2019)

H02-0448-18 (Former South View Primary School Albion Street- Reserved Matters) - Erection of 22 dwellings (approved 22nd August 2018).

H02-0405-17 (Former South View Primary School Albion Street) - Outline - Erection of up to 22 dwellings (approved 16th August 2017)

Consultation Responses

Crowland Parish Council

The Parish Council strongly object to this application, with the loss of the designated Public Open Space which was created as a condition on the original development. Also concerns about any access onto Broadway.

SHDC Conservation Officer

Whilst the proposal site is adjacent to the Conservation Area, I do not believe that the details suggest that such a proposal would present any risk to the values or significance of any nearby heritage asset, and nor would it severely impact upon any important or characterful views into or out of the conservation area itself. Therefore, I do not wish to raise any objections.

LCC Highways/SUDS

The proposal is for the construction of a pair of semi-detached dwellings and it does not have an impact on the Public Highway or Surface Water Flood Risk.

North Level Internal Drainage Board

No comment.

Public

IDs 6 objections have been received, precised as follows:

This land was planned in to the development to be open space / greenspace, but has been left not particularly usable by developer

The loss of greenspaces for children to play on would impact on safety and child health

The play area for children will be moved to the road making it very unsafe

Loss of natural light to dwelling

Trees on adjacent land

Impact on wildlife

Noise and dust during construction

2 comments have been received:

Raising queries regarding whether the developers would be keeping the entrance road clean and all areas surrounding the build clean during the period of build and the working hours on site.

Concerns about the easement strip that is the gravel area leading to the new properties and the allocation of this

area, at the moment on the plan received by owners on purchase shows each property has its allocated part and would like to be assured this will not change.

2 complaints received regarding consultation process. This is addressed below.

There is also a petition / letter raising some of the concerns outlined above, plus concerns re damage to road from construction vehicles and highway safety, which has been signed by the occupants of 15 nearby dwellings.

Planning Considerations

The main issues in this case are:

Principle of Development and Sustainability
Layout, Scale and Appearance
Highway safety and parking
Impact of neighbouring Residents/land users
Flood risk and drainage
Heritage considerations
Developer Contributions

Principle of Development and Sustainability

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.

The site lies within the settlement boundary for Crowland as per the relevant inset map of the South East Lincolnshire Local Plan (2019) (SELLP). Policy 1 (Spatial Strategy) of the SELLP indicates that within Main Service Centres, such as Crowland, development will be permitted that supports its role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. In the context of this, the principle of residential in this location is considered acceptable.

Layout, Scale and Appearance

The proposal is for a detached dwelling fronting Hardwick Close with access and parking to the front. The house type is similar to those adjacent, having been built by the applicant, and would be sited on a similar sized plot to others nearby, therefore there are no concerns over their appearance in this respect.

Finished floor levels would only need to be raised by approx. 300mm taking into account the likely flood depths on that particular part of the site, which would be negligible in design terms.

The original Reserved Matters approval for the wider site (ref. H02-0448-18) included 6 dwellings at the very north of the site, including two dwellings on this area of land. Taking into account the overall density of development in the vicinity, officers remain of the view that an additional dwelling in this location would not materially impact the character of the area.

This part of the site has never been identified as open space as such, therefore there are no policy constraints to its redevelopment in this regard.

Taking the above into account, it is concluded that the proposed development would satisfactorily accord with Policies 2 and 3 of the Local Plan. Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the character of the location.

Highway safety and Parking

The Highway Authority have been consulted as part of the application process and have no objection to the proposal on highway grounds. On this basis, the proposal satisfactorily accords with Policy 2 of the Local Plan which requires it to be demonstrated that access and vehicle generation levels will be acceptable.

Appendix 6 of the SELLP sets out minimum vehicle parking standards for residential developments and requires that 2 parking spaces be provided for dwellings with up to 3 bedrooms. Two spaces are indicated for each dwelling to the front of the plots, and sufficient parking would be retained for the other dwellings in accordance with the policy requirement.

Impact of neighbouring Residents/land users

There are no side facing windows to no. 9 Hardwick Close and the windows to the rear elevation of the proposed dwelling are to serve a bathroom and landing; these windows could be required to be

obscure glazed to prevent the perception of overlooking. The relationship with no's. 28 and 30 Hardwick Close is tantamount to a standard frontage relationship. The relationship between the proposed dwelling, having a bedroom window in the road frontage elevation, and dwellings on Reform Street would be the usual cross-road dwelling relationship of bedroom to bedroom windows. Given these considerations, it is not considered that the proposed development would result in material overlooking, overshadowing or loss of light or overbearing impacts on any existing properties on Hardwick Close or the eastern side of Reform Street.

The design of the dwelling proposes windows in the rear elevation that would face the side elevation of no. 9 Reform Street, however these windows would serve non-habitable rooms and could be required to be obscure glazed to prevent the perception of overlooking, as set out above. The distance of the rear elevation of the proposed dwelling to no. 9 Reform Street, would be approximately 10 metres. This distance is not ideal however given the context of the development and the current lack of local design guidance, the application has been assessed on its merits and it is not considered that planning permission could be refused on this basis.

In light of the above considerations, the proposed development is considered on balance to satisfactorily accord with Policies 2 and 3 of the Local Plan in amenity terms.

Flood risk and drainage

The NPPF requires the application of the Sequential Test to steer new development to areas with the lowest probability of flooding. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology it is possible to use the information to steer development towards the areas of lower flood risks as advised within Section 14 of the NPPF.

In terms of flood risk, the application site is situated in Environment Agency Flood Zone 1. Furthermore, the site lies within an area identified in the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) as 'Low Hazard' with potential flood depths of up to 0.25m (based on the Residual Peak Depth - 1% Fluvial/0.5% Tidal scenario for 2115).

The Local Plan has allocated sequentially preferable sites in terms of flood risk that are capable of meeting the identified housing targets for individual settlements. Although the application site is not a housing allocation within the Local Plan (only suitable sites capable of accommodating 10+ dwellings have been allocated), the site does lie within the settlement boundary for Crowland. In general, there is a presumption in favour of sustainable development within settlement boundaries and windfall sites are expected to have a contribution towards housing supply (and maintaining the 5-year supply of deliverable sites) in the district. As such, one could argue that, should the site be acceptable in all regards, and if the Exceptions Test is successfully passed, that the site is acceptable in flood risk terms, notwithstanding the fact that there are sequentially preferable allocated sites in the adopted Local Plan.

In order for the Exceptions Test to be passed, it must be demonstrated that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

With regard to the above, the development would provide some sustainability benefits to the local area through a contribution (albeit small) towards housing supply, and other benefits including generating employment during the construction period and its proximity to a range of services and facilities. Providing that finished floor levels are set no lower than 0.3m above existing ground level, the development would be safe for its lifetime.

In terms of drainage, the proposal is to connect into the existing system that serves the adjacent new build dwellings. This is an acceptable arrangement.

Heritage considerations

The proposal site is adjacent to the Conservation Area. As can be seen from the consultation response above, the SHDC Conservation Officer does not consider that the details suggest that such a proposal would present any risk to the values or significance of any nearby heritage asset, and nor would it severely impact upon any important or characterful views into or out of the conservation area itself. The proposal would accord with Policy 29 of the SELLP in this regard.

Developer contributions

The application site lies within the red line boundary for the original development of 22 dwellings (ref. H02-0405-17 and H02-0448-18). This effectively increases development on the site to 23 dwellings.

Explanatory paragraph 3.7.5 of the South East Lincolnshire Local Plan (2019) states that "Where it is proposed to phase developments, sub-divide sites or where recent subdivision has taken place, or where there is a reasonable prospect of adjoining land being developed in tandem, the whole site will be considered for the purpose of determining whether the scheme meets the site and/or floorspace thresholds identified by Policy 6."

It is the view of officers that this proposed dwelling forms part of the wider site and, on that basis, would attract a requirement for developer contributions. This conclusion has been supported by SHDC's Senior Planning Lawyer.

Policy 6: Developer Contributions of the SELLP sets out:

Developments of 11 or more dwellings, or which have a combined gross floorspace of more than 1,000 sqm, or non-residential development of 1,000sqm gross floorspace or more will be expected to mitigate their impacts upon infrastructure, services and the environment to ensure that such developments are acceptable in planning terms. The Local Planning Authorities will not accept any proposals that artificially reduce capacity or floorspace to circumvent the proper operation of this policy.

Developer contributions will only be sought when they meet the tests set out in paragraph 56 of the NPPF, or any successor.

Developers will either make direct provision or will contribute towards the provision of local and strategic infrastructure and services required by the development, either alone or cumulatively with other developments. Contributions will be determined having regard to

- the identified needs generated by the proposed development;*
- the viability of the proposed development; and*
- the priorities attached to meeting individual local and strategic infrastructure and service requirements.*

Contributions will be secured through section 106 (legal) agreements. Developer contributions will also be subject to the criteria set out in the Community Infrastructure Regulations (2010) 122 and 123 (or any successors) which require any financial contribution or contributions in kind towards infrastructure to meet a number of criteria.

Developer contributions relating to the provision of:

- affordable housing will be made in accordance with Local Plan Policy 18: Affordable Housing;*
- transport infrastructure will be made in accordance with Local Plan Policy 33: Delivering a More Sustainable Transport Network, and where appropriate:*
 - Policy 13: South-West Quadrant Sustainable Urban Extension;*
 - Policy 14: South of the North Forty Foot Sustainable Urban Extension;*
 - Policy 15: Vernatts Sustainable Urban Extension;*
 - Policy 16: Holbeach West Sustainable Urban Extension;*
 - Policy 34: Delivering the Boston Distributor Road; and*
 - Policy 35: Delivering the Spalding Transport Strategy;*

- education facilities will be made in accordance with the requirements set out in Appendix 8: Developer Contributions for Education Facilities;
- health facilities will be made in accordance with the requirements set out in Appendix 9: Developer Contributions for Health Facilities; and
- sport facilities, recreational open space and other green infrastructure will be made in accordance with Local Plan Policy 32: Community, Health and Well-being.

In addition, the provision of developer contributions should be in accordance with the relevant requirements of:

- *The proposed Developer Contributions Supplementary Planning Document (SPD) and each Local Planning Authority's Developer Contributions Prioritisation Framework (or successor);*
- *the South East Lincolnshire Infrastructure Delivery Plan (IDP) , and*
- *a Community Infrastructure Levy (CIL) charging schedule, if considered appropriate in the long-term.*

The application is supported by a viability assessment, and this, in agreement with the applicant, has been independently assessed by CP Viability. The draft of the assessment was sent to the applicant for comment; agreement regarding the basis for assessment and the outcomes of the independent assessment could not be agreed and as a result the response of CP Viability was updated, sent to the applicant and put in to the public realm.

In order to accord with the expectations of Policy 6: Developer Contributions of the SELLP, as clarified by explanatory paragraph 3.7.5 of the SELLP, the application proposal is to be considered as part of the wider site, that was granted consent for 22 dwellings and to consider this addition of one dwelling to the over all site, in the light of the policy framework set out above, as well as the provisions of the NPPF 2021.

Paragraphs 57 and 58 of the NPPF 2021 set out that:

Paragraph 57

Planning obligations must only be sought where they meet all of the following tests:

- a) necessary to make the development acceptable in planning terms;*
- b) directly related to the development; and*
- c) fairly and reasonably related in scale and kind to the development.*

Paragraph 58

Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

The independent review by CP Viability was undertaken in accordance with the RICS Financial viability in planning: conduct and reporting 1st Edition (May 2019), relying on the information provided to CP Viability the instructing body (SHDC) and the applicant and in particular information publicly available through the Council's planning portal website. The resultant report reflects the independent views of CP Viability, based on the research undertaken, the evidence identified and the experience of the analysing surveyor.

The applicant submitted an appraisal which presents 'actual' revenues and costs for the original 22 dwelling scheme, plus the anticipated revenues and costs for 3 additional units. For the purposes of the review undertaken by CP Viability, as we are testing the impact of 1 additional dwelling on the scheme viability, CP Viability adjusted the revenues and costs to reflect this.

Based on the applicant's assumptions, the scheme generates a developer profit of £564,997, equivalent to rate of return on revenue of 11.80% (inclusive of the additional dwelling). As this is below the viability guidance suggested range of 15% to 20% on revenue, by inference the applicant

is seeking to demonstrate that this does not meet the viability threshold to justify any additional affordable housing / planning policy contributions.

The most recent guidance is detailed within the National Planning Policy Framework 2021 ('NPPF') and Planning Practice Guidance ('PPG'), as published on 24th July 2018 (and updated in May and September 2019). This provides a more up to date guide to undertaking viability assessments. One key area which the PPG specifically deals with is in relation to assessing Benchmark Land Values, stating the following (and setting out a clear methodology for arriving at a benchmark land value). This methodology is set out in the CP Viability assessment, that is in the public realm.

The guidance within the PPG is clear that a Council should not subsidise (through a loss of planning policy contributions) any overbid made when acquiring the site. Any overbid (or indeed underbid) for a site should therefore be disregarded when considering the BLV. As part of the process of reviewing viability it is down to the assessor to determine whether a price paid is an appropriate figure (or not) to use as a Benchmark Land Value.

CP Viability undertook an assessment and concludes that the scheme is deemed to not be sufficiently viable with the additional dwelling to justify this unit as an affordable dwelling. However, if this plot is provided as a market value unit, there is a surplus of £296,947 - £263,827 = £33,120 which can be provided in lieu of an onsite affordable dwelling.

The disagreement of the applicant with the findings of CP Viability is the result of differing methods in calculating viability; it is to be noted that viability assessments are to be undertaken in accordance with the RICS Financial viability in planning: conduct and reporting 1st Edition (May 2019).

Given the assessment provided by the applicant and the independent review by CP Viability, it is considered that in order to provide a policy compliant development, it would be appropriate to request the payment of a sum in lieu of an onsite affordable dwelling, which would be delivered via a Section 106 legal agreement. At the time of the preparation of the CP Viability report this sum stood at £33,120. This would ensure that the development would be in accordance with Policy 6: Developer Contributions of the SELLP, the wider intentions and policies of the SELLP and the guidance set out within the NPPF 2021.

As the applicant does not accept that a standard RICS methodology is to be used to assess the proposal, and disagrees with the findings of the independent review, it is recommended that planning permission is refused for the reasons set out above.

Other considerations

Impact of noise and dust - A construction management plan could be conditioned to deal with matters such as noise, vibration and dust.

Road has already been completed and damaged would be caused with construction vehicles and machinery - It would be the responsibility of the developer to undertake remedial works if damage is caused. This is a civil matter.

Impact on wildlife - No features/evidence were observed on the land itself at the time of the site visit that indicate it is of ecological value.

Trees on adjacent land that a resident considers impacts upon residential amenity is a civil matter.

Complaints received regarding consultation process. - All properties on Hardwick Close have been consulted, plus those in close proximity on Albion Street and Reform Street as well as the Crowland Parish Council. In addition a site notice was displayed near to the site. The consultation process undertaken accords with the Council's adopted Statement of Community Involvement.

Concern that land owned by each property does not change - Matters of land ownership are a civil matter.

Planning Balance

The principle of residential development on this site is acceptable given its location within Crowland's settlement boundary. The site is not protected as open space, nor was it identified as

such on the previously approved plans for Hardwick Close. Furthermore, it is not considered that the development would have a detrimental highway, amenity or character impact and flood risk mitigation can be satisfactorily addressed by condition. The drainage proposals are acceptable. The viability information provided and assessed is not agreed by independent assessment and it is considered that at present the application would not accord with the policies of the SELLP, nor the guidance set out within the NPPF or the PPG.

On that basis the planning balance is that planning permission is to be refused.

Conclusion

Refuse planning permission for the following reason:

Policy 6 (Developer Contributions) of the South East Lincolnshire Local Plan (2019) sets out the following:

"Developments of 11 or more dwellings, or which have a combined gross floorspace of more than 1,000 sqm, or non-residential development of 1,000 sqm gross floorspace or more will be expected to mitigate their impacts upon infrastructure, services and the environment to ensure that such developments are acceptable in planning terms. The Local Planning Authorities will not accept any proposals that artificially reduce capacity or floorspace to circumvent the proper operation of this policy."

This application site forms part of a wider development site and this is accepted by the applicant. In its current form it is considered that the application fails to demonstrate via a viability assessment that the development proposed would accord with Policy 6 of the South East Lincolnshire Local Plan 2019 and the guidance set out in the National Planning Policy Framework 2019. The policy requirements for affordable housing provision, via a payment in lieu of on site provision, would not be delivered, to the detriment of the policies and intentions of the South East Lincolnshire Local Plan 2019 and the National Planning Policy Guidance 2021.

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.