DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-1089-23**	**Applicant:**	**Churchfield Developments Ltd**
Proposal:	Residential development - Erection of pair of semi-detached dwellings		
Location:	Land Adj. 9 Hardwick Close Crowland		
Terminal Date:	30th January 2024		

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
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

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 and Beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

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	0	0	0	1

BOARD				
SHDC INTERNAL	0	0	1	0
RESIDENTS	3	0	0	1

CASE OFFICER ASSESSMENT

Reason for Chairman's Panel

Residential Development on the application site previously refused in relation to developer contributions.

Proposal

This is a full planning application for the erection of a pair of semi-detached dwellings. The dwellings are located to the west of number 9 Hardwick Close.

The proposed dwellings would align with the frontage of existing dwellings 5-9 Hardwick Close they are two-bedroom dwellings with parking projected to the front in a court. To the rear a private amenity is proposed, the applicant also seeks to install solar panels to the roof.

Site Description

The application site is located within the settlement limits for Crowland as identified by the proposal maps and located within flood zone 1 in accordance with the Environment Agency maps for planning. This area of land is currently grassed over and vacant. It is accessed through an existing private drive. The application site also borders Reform Street which runs along the eastern boundary.

History

H02-0886-22 - Residential development - Construction of one detached dwelling. Refused 15-02-23
02-0872-22 (Land adjacent 38 Broadway) - Full - Residential development - Erection of two semidetached 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

North Level IDB

No Objections.

Highways & SUDS Support

No Objections: 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 would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Environmental Protection

No comments.

Representations

Two objections have been received against the application and they are summarised into the following materials planning points:

- The area is played on by children
- Building out in this area will create an overshadowing impact
- Disruption during construction

A letter of support has also been received, it is summarised below.

- The area is blighted by rubbish and the building out of this space would potentially prevent that happening in the future

Planning Considerations

The application site is located within the settlement limits for Crowland and within Environment Agency flood zone 1. The proposal which is located within a wider red line boundary that approved 22 dwellings (H02-0075-19). The proposal is for the erection of 2 dwellings. The following issues are relevant to this assessment.

- Principle of Development
- Developer Contributions
- Layout, Design and Impact on the Character of the Area
- Residential Amenity
- Flood Risk & Drainage
- Highway Safety
- Other Issues

Evaluation

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted

Supplementary Planning Documents.

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

Principle of Development

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The application site in this instance is within Crowland, a Main Service Centre. Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) 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.

The site lies within the defined settlement boundary for Crowland as per the relevant inset map of the South East Lincolnshire Local Plan (2019) (SELLP). In context of this, the principle of residential development within this location is considered to be appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy.

Developer Contributions

Policy 6 of the South East Lincolnshire Local Plan (2019) is concerned with developer contributions. It states that "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."

Notwithstanding this, 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."

A recent planning application on this site H02-0886-22 for a single dwelling was refused for the following reason:
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 2021. 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.

However, another recent planning application H02-0277-23 allowed for the erection of a dwelling within the same red line boundary without the requirement for planning obligations. This dwelling

was in the area marked on plans for public open space, though this obligation was not reinforced through a S106 legal agreement. Planning committee approved this development subject to conditions and a decision was issued on 17th November 2023.

The legal test for securing planning obligations are set out as statutory tests in regulation 122 (as amended by the 2011 and 2019 Regulations) and as policy tests in the National Planning Policy Framework December 2023. They are:

-necessary to make the development acceptable in planning terms;
-directly related to the development; and
-fairly and reasonably related in scale and kind to the development.

Previously, explanatory paragraph 3.7.5 of Policy 6 of the South East Lincolnshire Local Plan (2019) was applied as officers at that time considered the proposal (on this application site) was part of the wider development approved under H02-0886-22. However, that application has been built out, the obligations have been met (this has been confirmed) and whilst the dwellings are located within the original red line boundary the time lapsed. Conformity to previous obligations and the intervening planning decision (H02-0277-23) which is material have all occurred. In this instance then it is considered that given the proposal is for two dwellings an obligation is not necessary to make the development acceptable in planning terms. This is not a planned phase to a wider scheme and so this application must be taken on its own merits, in so it is not sufficiently directly related to the original residential development and lastly to attach an obligation to the erection of two dwellings, within a main service centre would not be reasonably related in kind or scale.

On this basis it is considered that an obligation is not necessary and the pursuit of one would be contrary to the legal tests set out in CIL regulation 122 (as amended by the 2011 and 2019 Regulations).

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Policy 2 of the South East Lincolnshire Local Plan (2019) states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Policy 2, point 1, states that the proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable".

The dwelling which is sited adjacent to number 9 Hardwick Close would take up a location that is acceptable in terms of character. The frontage would reinforce the built form of numbers 5-9. Moreover, the scale and appearance of the dwellings are commensurate with the dwellings already in site. An appropriate palate of materials have been proposed that would allow for this development to be easily absorbed into this location.

On this basis, it is considered that the proposal would not cause an unacceptable impact to the character of the area and would comprise an appropriate design, in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2023).

Residential Amenity

Paragraph 135 of the National Planning Policy Framework (December 2023) 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.

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

Policy 30 of the South East Lincolnshire Local Plan (2019) is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

The proposal is located at a sufficient separation distance from all other dwellings, as to not give rise to unacceptable impacts through overshadowing and overbearing impact. Furthermore, all openings are proposed in appropriate locations that would not give rise to unacceptable impacts in relation to visual intrusion.

Despite some objections expressing concerns in relation to potential overshadowing, this development while having some impact would not be the root cause, notwithstanding this the level of overshadowing experienced by existing residents this development, if approved, would not make that scenario unacceptable.

The internal space standards are also acceptable as is the external amenity area. The applicant shows that the existing field access will be blocked up and soft planting treats the boundaries.

The control of construction hours is necessary in this instance due to the proximity of existing properties.

On this basis, it is considered that the proposal would not cause an unacceptable impact to amenities and would accord with Policies 2 and 30 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2023).

Drainage

Policy 4 of the South East Lincolnshire Local Plan (2019) sets out the districts approach to flood risk and drainage. The applicant has stated that surface water as well as foul water will be directed to the mains sewer. This strategy has been previously approved for dwelling located in the area and so considered acceptable.

The IDB have been consulted and have no objections. The developer has a legal right to connection, given the scale of the development it is not considered that a mitigation condition would be required.

Therefore it is considered that the proposal would meet with the requirements of South East Lincolnshire Local Plan (2019) Policy 4.

Highways Safety

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

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 proposal would utilise the existing private drive making no alterations to it. A sufficient level of parking is also proposed that would accord with the standards set out within the South East Lincolnshire Local Plan (2019). The proposal would also retain sufficient parking provision for other dwellings in the area. The rear gardens would also provide a secure private amenity where a facility for the storage of bicycles could easily be constructed/placed. Highways have been consulted and have no objections.

On this basis, it is considered that the proposal would accord with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan (2019) and Section 9 of the National Planning Policy Framework (December 2023).

Planning Balance

On balance, it is considered that the original S106 has been complied with and the original development is complete and occupied. Furthermore, residential permissions have since been approved within the original site boundary, with no requirement to make contributions.

Given this, it is considered that this application is judged as a standalone planning application for the erection of two dwellings and does not trigger the requirement for planning obligations.

It is considered that the development is acceptable and there are no other material considerations that indicate otherwise.

Conclusion

The proposal is considered acceptable in planning principle. Obligations sought would not meet with the legal tests set out under in CIL regulation 122 (as amended by the 2011 and 2019 Regulations). The character and amenity of the area following the development would be acceptable and highways have no objections to the development.

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

It is recommended that the application be approved under delegated authority.