

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H02-1179-22 **Applicant:** Churchfield Developments Ltd

Proposal: Residential development - Construction of pair of semi-detached dwellings (re-submission of H02-0872-22)

Location: Land Adj 38 Broadway Crowland Spalding

Terminal Date: 2nd February 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2021**

Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

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	1	0	0	0

OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application for residential development - Construction of a pair of semi-detached dwellings on land adjacent to 38 Broadway, Crowland.

The application is a re-submission of application ref. H02-0872-22 which was refused for the following reasons:

1. The site falls within an area identified in the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) as being at increased flood risk in the future, in case of a breach in the tidal defences. The SFRA mapping shows that the site lies within a "Danger for Most" hazard zone, with potential flood depths of up to 1m (based on the Residual Peak Depth - 1% Fluvial/0.5% Tidal scenario for 2115).

The Standing Advice Matrix which supports the SFRA requires that properties in the "Danger for Most" hazard zone, with potential flood depths of up to 1m, have finished floor levels a minimum of 1m above ground level.

It is considered that raising floor levels by 1m in such close proximity to no. 38 Broadway (which is not raised) would result in a form of development that would appear incongruous and out of keeping with the street scene and would have a material adverse impact on the character and appearance of the area.

Taking the above into account, it is concluded that the proposal would be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019). 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.

2. In light of the requirement to raise finished floor levels by 1m above existing ground level as a flood mitigation measure, a 2.8m high boundary treatment would be required to be installed between the existing and proposed dwellings in order to prevent an overlooking issue. Given that the gardens of 'Plots 3 and 4' (as indicated on dwg. no. P-22-2251-103) are only a maximum of 8m in length, it is considered that a 2.8m high boundary treatment would have a material overbearing impact on the occupiers of those properties.

Furthermore, Plot 4 is in close proximity (approx. 3m) from the side elevation of no. 38 Broadway, which has 4 windows (2 to the lounge and 2 x bedroom windows) on that elevation. Whilst there would appear to be other windows serving these rooms in addition to these, they are either north facing or in close proximity to established trees which will limit light to these rooms and will adversely limit outlook by virtue of being overbearing. Building a dwelling in such close proximity to the side facing windows of no. 38, coupled with the requirement to raise floor levels would further exacerbate the issue.

It is therefore concluded that the proposal would be contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) in amenity terms. Policy 2 requires consideration of a proposals impact upon neighbouring land uses by reason of visual intrusion and Policy 3 requires residential amenity to be considered.

3. The application site was intended to form part of the open space for the 22 dwelling development on the former South View Primary School site and was still indicated as such on the 2021 application for the pumping station and enclosure (ref. H02-0268-21).

A developers neglect of a piece of land that has not been finished as per the approved plans is not a justifiable reason for the loss of an area of open space that should have been delivered. The proposal is therefore contrary to Policy 32 of the South East Lincolnshire Local Plan (2019), which requires development proposals to support the provision of new facilities, including open space.

Site Description

The site sits close to the corner of Albion Street and Broadway and was intended to form part of the open space for the 22 dwelling development on the former South View Primary School site. There is a two storey dwelling (the old school house) immediately adjacent and there are new dwellings constructed by the same applicant to the rear. The pumping station for the wider site lies to the west. The overriding character of the area is residential. Existing development in the area is quite varied in nature.

History

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

H02-0408-21 - 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 - Full - Proposed Pump Station Enclosure & Access (retrospective) (approved July 2021)

H02-0075-19 - 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 - 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 - Reserved Matters - Erection of 22 dwellings (approved 22nd August 2018).

H02-0405-17 - Outline - Erection of up to 22 dwellings (approved 16th August 2017)

Consultation Responses

Crowland Parish Council - CPC have concern with the loss of amenity land, clearly stated as public open space and the risk to mature trees that have been incorrectly identified. - Overdevelopment - Open space The application site was intended to form part of the open space for the 22 dwelling development on the former South View Primary School site. - Broadband and telephone cables running across application site - The site falls within an area identified in the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) as being at increased flood risk in the future, in case of a breach in the tidal defences. The SFRA mapping shows that the site lies within a "Danger for Most" hazard zone, with potential flood depths of up to 1m (based on the Residual Peak Depth - 1% Fluvial/0.5% Tidal scenario for 2115). The Standing Advice Matrix which supports the SFRA requires that properties in the "Danger for Most" hazard zone, with potential flood depths of up to 1m, have finished floor levels a minimum of 1m above ground level. It is considered that raising floor levels by 1m in such close proximity to no. 38 Broadway (which is not raised) would result in a form of development that would appear incongruous and out of keeping with the street scene and would have a material adverse impact on the character and appearance of the area. proposal would be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

LCC Highways/SUDS - No objection. Requests standard highway informatives.

North Level IDB - As highlighted in the Board's response to application H02-0268-21, it is unclear where surface water from the adjacent development ultimately outfalls. Without details of this, the Board cannot determine what impact the application may have on its maintained drainage network and whether or not the applicant will need to obtain consent from the Board for the development's surface water discharge. At the current time the Board must therefore object, as it did to application

H02-0268-21.

Anglian Water - The Planning & Capacity Team provide comments on planning applications for major proposals of 10 dwellings or more, or if an industrial or commercial development, 500sqm or greater. However, if there are specific drainage issues you would like us to respond to, please contact us outlining the details.

Public (3 objections received, summarised) -

- Area was intended to be a green communal space in original plans
- No advanced warning of planned expansion
- Site looks a mess and developers should honour agreement with the residents to provide this open / green space
- Children like to play on site as it is not safe for them to walk independently to the park
- Previous refusal reasons still valid
- 1.8m boundary treatment would be inadequate
- Properties will be higher than proposed in previous application which is worse
- Overbearing and loss of light impact to habitable rooms in adjacent property
- Impact of surface water flooding on adjacent dwelling and potential for impact on foundations

Planning Considerations

Principle

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 2 x 3 bed semi-detached dwellings fronting Broadway with access and parking to the rear from Hardwick Close. The house types are similar to those immediately to the north that have recently been built by the applicant and they would be sited on similar sized plots to others nearby, therefore there are no concerns over their appearance in this respect.

However, because of the flood risk of the site, there is a requirement for floor levels to be raised. The submitted flood risk assessment identifies that the floor levels would have to be raised by around 800mm above typical ground level. In view of the site sections provided (which were not available for the previous application), it is considered that the impact on the character and appearance of the area by virtue of raising levels would, on balance, be acceptable. The footway to the front of the site already sits higher than the application site thus would lessen the impact of raising levels. Furthermore, the ridge height of the proposed dwellings would be lower than that of 38 Broadway and there would be a difference of approx. 480mm in DPC levels which, whilst not insignificant, is not such a difference that it would appear obtrusive.

Taking the above into account, it is concluded that the design of the dwellings and the visual impact of raising floor levels on site would not cause material visual harm and the proposal would 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.

Highways 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. The proposal accords with this requirement.

Residential amenity

One of the previous reasons for refusal was that: *"In light of the requirement to raise finished floor levels by 1m above existing ground level as a flood mitigation measure, a 2.8m high boundary treatment would be required to be installed between the existing and proposed dwellings in order to prevent an overlooking issue. Given that the gardens of 'Plots 3 and 4' (as indicated on dwg. no. P-22-2251-103) are only a maximum of 8m in length, it is considered that a 2.8m high boundary treatment would have a material overbearing impact on the occupiers of those properties."*

This new application is accompanied by a site section drawing and site-specific flood risk assessment that indicates that finished floor levels would need to be raised by around 800mm above typical site level to mitigate flood risk. The site section drawing shows a fence of 2m in height and average eye height would sit around the level of the top of this fence based on the floor levels of the facing properties. Some additional trellising on top would be beneficial for added protection of privacy, which could be conditioned if permission were to be forthcoming. On this basis, that particular concern is considered to be overcome.

However, Plot 4 still remains in close proximity (approx. 4m) from the side elevation of no. 38 Broadway, which has 4 windows (2 to the lounge and 2 x bedroom windows) on that elevation. Whilst there would appear to be other windows serving these rooms in addition to these, they are either north facing or in close proximity to established trees which will limit light to these rooms and will adversely limit outlook by virtue of being overbearing. Building a dwelling in such close proximity to the side facing windows of no. 38 would further exacerbate the issue. Whilst a fence could be erected in close proximity to the boundary, it is not considered that a fence would be comparable in height to a two storey wall.

In light of the above considerations, the proposed development is considered, on balance, to be contrary to 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. Therefore, the site would appear to be situated in an area of low flood risk in first instance. However, the site lies within an area identified in the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) as being at increased flood risk in the future, in case of a breach in the tidal defences. The mapping shows that the site falls within a "Danger for Most" hazard zone, with potential flood depths of up to 1m (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 3.4m AOD (as per the FRA recommendations), the development would be safe for its lifetime. On that basis, it is considered that the Exception Test can be passed.

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.

Open space

It was understood that the application site was intended to form part of the open space for the 22 dwelling development on the former South View Primary School site and was still indicated as such on the 2021 application for the pumping station and enclosure, with the area being shaded green and marked 'Public Open Space'. However, in the absence of a key on the plan which expressly indicates that the land is to be grassed or a condition or legal agreement relating to the management and maintenance of this area of land, the Local Planning Authority is of the view that it is unable to take enforcement action to require the land to be grassed and available to the public.

In light of this, it is not considered that the land can reasonably be protected for the purpose of 'Public Open Space' and its redevelopment cannot be justifiably be resisted on that basis.

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). 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 these proposed dwellings form part of the wider site and, on that basis, attract a requirement for developer contributions.

Given the other concerns around amenity impact, these two dwellings have not been subject to a viability exercise at this stage.

Other considerations

The appropriate consultations have been undertaken by the Local Planning Authority. It is a developers choice as to whether or not to inform residents of impending applications.

The potential for an impact on the foundations of the neighbouring property is a civil matter, rather than planning.

Planning Balance

The principle of residential development on this site is acceptable given its location within Crowland's settlement boundary. Furthermore, it is not considered that the development would have a detrimental highway impact and flood risk mitigation can be satisfactorily addressed by condition. The drainage proposals are acceptable.

The previous concerns relating to the loss of 'Public Open Space', the height of boundary treatment and the visual impact of raising floor levels has been satisfactorily addressed/overcome.

However, Plot 4 remains in close proximity (approx. 4m) from the side elevation of no. 38 Broadway, which has 4 windows (2 to the lounge and 2 x bedroom windows) on that elevation. Whilst there would appear to be other windows serving these rooms in addition to these, they are either north facing or in close proximity to established trees which will limit light to these rooms and will adversely limit outlook by virtue of being overbearing. Building a dwelling in such close proximity to the side facing windows of no. 38, coupled with the requirement to raise floor levels would further exacerbate the issue.

In summary, whilst there are factors in relation to the proposal that are acceptable, this impact is considered sufficiently harmful to tip the balance against it.

Conclusion

The proposal is considered to generally accord with Policies 1, 4, 10, 11, and 36 of the South East Lincolnshire Local Plan (2019). However, the detrimental amenity impact on 38 Broadway is such that the proposal is contrary to Policies 2, 3 and 32 of the Local Plan.

The recommendation is therefore that the application be refused.

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.