DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0529-24**	**Applicant:**	**Cowley Academy**
Proposal:	Installation of new fence to western boundary and replacement of existing fencing - re-submission of H04-0568-23		
Location:	Cowley Academy School Lane Donington		
Terminal Date:	29th November 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
28	The Natural Environment
29	The Historic Environment

National Guidance

National Planning Policy Framework 2023

Sections 12, 15 and 16 of the National Planning Policy Framework (December 2023) (NPPF)

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This application is for the Installation of new fence to western boundary and replacement of existing fencing.

The application is a re-submission of H04-0568-23

Site Description

The application site is located within the curtilage of the Grade II listed Thomas Cowley High School along the western boundary and is within the Donington Conservation Area. Adjacent the western boundary are a row of dwellings, accessed by the public footpath running along side the boundary.

History

H04-0617-91 - Erection of dwellings. REFUSED on 16/07/1992

H04-0055-02 - Change of use from residential to educational. APPROVED on 21/02/2002

H04-1312-03 - New single storey library/museum and learning resource facility for community and school use and widen access road. REFUSED on 16/12/2003

H04-1313-03 - Demolition of existing derelict cottage and section of front wall (conservation area consent). REFUSED on 16/12/2003

H04-0519-07 - Single storey extension for use as IT room. REFUSED on 13/06/07

H04-0549-15 - Demolition and site clearance of cottage. REFUSED on 06/07/2015

H04-0160-21 - Replacement of windows and doors. Approved 01/04/2021

H04-0844-19 - Demolish cottage to allow 2 classroom block with wc's. Approved 04/10/2019

H04-0658-23 - Replacement of windows and doors. Approved 13/09/23

H04-0568-23 - Proposed replacement fencing to western boundary. REFUSED on 15-08-23

H04-0537-24 - Re-surfacing of sports court and replace existing fencing. Approved 16-09-24

Consultation Responses

Lincolnshire County Council Historic Environment Team

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on any archaeological remains.

Consequently, no further archaeological input is necessary for this application.

S&ELCP Senior Ecologist

Because the proposed fence would not occupy a greater footprint than the existing, the ecologist confirms they agree with the exemption statement, affirming that the proposal is exempt from BNG requirements.

Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Biodiversity

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 (December 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.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Principle of Development and Sustainability

The application site has already got an established use as a school. As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and impact on highway safety which are discussed in turn as follows.

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.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments 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, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan 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. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings. These policies accord with the provisions of the National Planning Policy Framework and require 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.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The applicant proposes to utilise a black metal H rail fence across the entire proposed span with an associated gateway for maintenance access. This sort of fence is already used elsewhere on site and is intended to match the existing fencing elsewhere on the site. The proposed fence would not

appear at odd with the character of the wider setting and would not bear an overburdening appearance on the area.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Neighbouring Residents/Land Users/Land Uses

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.

Policies 2 and 3 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.

The proposed fence would be of a standard 1.8m domestic scale and fully transparent. Given this and the increased seperation distances between the propose fence and any nearby domestic properties, it is considered that the proposed work would not present an undue material risk of overlooking or overshadowing.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

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".

In respect of highway matters, 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.

Further, policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The proposed fencing is set back from the public footpath on the western boundary of the site by a minimum of 4m. Moreover, the nature of the proposed fence is such that it would not present a visibility or encroachment issue upon that aspect of the public highway.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

Biodiversity NET Gain

Biodiversity Net Gain (BNG) is a way of creating and improving natural habitats, it makes sure development has a measurably positive impact (net gain) on biodiversity. Developers must deliver a BNG of 10% on site and means a development will result in more or better quality natural habitat

than there was before development. There are a list of exemptions from the need for BNG, in this instance they believe they are exempt for the following reason(s) -

"We believe the development it be except under the grounds it is a small development 'de minimis', the development does not go over the threshold."

The S&ELCP Senior Ecologist was consulted and concurred with the applicant's exemption statement, confirming that they believed the proposal met the requirements for being considered 'de minimis'.

Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3, 28 and 29 of the SELLP in addition to Sections 12, 15 and 16 of the NPPF. Therefore, the recommendation is to approve.

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.