DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0568-23**	**Applicant:**	**South Lincolnshire Academies Trust c/o Cowley Academy**

Proposal: Proposed replacement fencing to western boundary

Location: Thomas Cowley High School School Lane Donington

Terminal Date: 15th August 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

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

National Guidance

National Planning Policy Framework 2021

Section 12 - Achieving well-designed places
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for proposed replacement fencing to western boundary.

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 Holbeach Conservation Area (HCA). 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. To be determined

Consultation Responses

LCC Highways & SUDS Support

Recommendation: No Objections

Comments:

The proposal is for the replacement fencing to western boundary, this runs adjacent to a footpath that is maintained at public expense, however, is located on private ground. Please note the comments made by the countryside team at the end of this response.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

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.

Comments from the Senior Countryside Officer

Donington Public Footpath No. 11 runs along the northern boundary of the Thomas Cowley High School and would be affected by the installation of the proposed fencing. The installation of a 2.1m high fence may potentially create a claustrophobic environment for path users. Ideally, the new

fence would be a maximum of 1.8m tall and constructed of mesh or similar material in order to maximise the availability of natural light and mitigate the potentially claustrophobic nature of the proposed fence.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received.

These can be summarised as:

-The school does not own the existing fence
-The area between the two fences will not be accessible
-The drawings do not show the fence in relation to immediate surroundings
-It is not possible to identify what land will be left between the two fences
-The plans do not identify the trees

Key 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
- Highway Safety and Parking
- Heritage Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, 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 2021) 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 (2021) specifically relates to 'Achieving well-designed 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 130, contained within section 12 of the National Planning Policy Framework (2021),

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.

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.

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.

The application proposes the erection of a new boundary fence along the western boundary. However, the drawings provided with the application fail to adequately demonstrate the relationship between the proposed development and its setting within the application site, nor do they show any features on the ground, current boundary locations, or boundary treatments. These deficiencies create significant uncertainty as to the appearance and likely impacts of the proposal which cannot be rectified at this stage without prejudice to other parties.

Therefore, a full assessment cannot be made to ensure the proposal would not cause an adverse impact to the character or appearance of the area to be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2021) 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 application proposes the erection of a new boundary fence along the western boundary. There are neighbouring dwellings adjacent the application site. However, the drawings provided with the application fail to adequately demonstrate the relationship between the proposed development and the adjacent properties sufficient to understand how the proposal would relate to neighbouring users. These deficiencies create significant uncertainty as to the likely impacts of the proposal which cannot be rectified at this stage without prejudice to other parties.

Therefore, a full assessment cannot be made to ensure that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal cannot be considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (2021) specifically relates to 'Promoting

sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2021) 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.

The proposal is for the replacement fencing to western boundary, this runs adjacent to a footpath that is maintained at public expense, however, is located on private ground. The Highway Authority have been consulted as part of the application process who have confirmed they have no objections.

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.

Planning Balance

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

The Town and Country Planning (Development Management Procedure) (England) Order 2015 at S7(1) requires applications for planning permission to include a plan which identifies the land to which the application relates but also 'any other plans, drawings and information necessary to describe the development which is the subject of the application'. Although validated by the Council, the drawings provided with the application fail to adequately demonstrate the relationship between the proposed development and its setting within the application site, nor do they show any features on the ground, current boundary locations, treatments or relationship to adjacent property sufficient to understand how the proposal would relate to neighbouring users. These deficiencies create significant uncertainty as to the appearance and likely impacts of the proposal which cannot be rectified at this stage without prejudice to other parties.

The Local Planning Department did request amended plans, however, theses where not forthcoming.

Conclusion

Although it could be possible no planning harm would arise with regard to the character and appearance of the area, this does not outweigh the failure to achieve a high standard of design with regard to impact on neighbouring amenity. Therefore, the proposal does not accord with the development plan taken as a whole.

The usual 'plans' condition necessary to ensure a development is constructed as approved, would not meet the required tests of precision and enforceability due to the deficiencies of drawn information that has been identified. To grant planning permission on that basis would risk unacceptable planning harm.

Consequently, it is recommended that the application is 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.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.