DECISION DELEGATED TO DEVELOPMENT MANAGER

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| **Application No:** | **H05-0555-20** | **Applicant:** | **Mr D Barker** |
| **Proposal:** | Proposed 2 houses and garages - approved under H05-0905-19. Removal of Condition 12 relating to 1.8m footway | | |
| **Location:** | Off Hallgate Church End Fleet | | |
| **Terminal Date:** | 10th September 2020 | | |

**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 |
| 11 | Distribution of New Housing |
| 17 | Providing a Mix of Housing |
| 29 | The Historic Environment |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2019**

Sections 12 and 16 of the National Planning Policy Framework (2019)

**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 | 2 | 0 | 0 | 0 |

## CASE OFFICER ASSESSMENT

### Proposal

This Section 73 Modification application seeks to modify the approval of H05-0905-19, to remove the provision of a pedestrian footpath as agreed under Condition 12 of that application.

### Site Description

The site is currently a patch of rough open ground surrounded by a ditch. This area of the conservation area is largely characterised by modern late-C20 properties, built to largely heritage-sympathetic designs.

Addtionally, the site sits within close proximity to the Grade I listed Church of St Mary Magdeline and the separate Bell tower which is also listed to a grade I standard. Both of these sites are almost directly to the North of the proposals. Additionally, the proposals are close to several buildings of local heritage - Battleford Hall, The Chestnuts and the Crooked Billet.

### History

H05-0905-19

Proposed 2 houses and garages. Approved on 25-11-19.

### Consultation Responses

Local Residents

A local resident has submitted an objection based upon the following grounds;

1) Removal of footpath would negatively impact upon drainage into the site, leading to unrestricted water ingress onto the site from the roadside.
2)Applicant states that footpath would damage the existing trees, but the original proposal seeks to remove these trees.
3)Applicant does not own the land upon which they propose to put the footpath.
4)If the applicants suggestion to put  a dropped kerb on the opposite side of the road is approved it will impact rainwater ingress onto properties on the Eastern side of Hallgate.
5)Children living in the proposed properties will benefit in terms of safety greatly from the proposed footpath.

Lincolnshire County Council as Lead Local Highway and Flood Authority

Condition 12, requiring the provision of the frontage footway, was attached to the Decision Notice for H05-0905-19 and it remains the preference of the Authority that the footway be provided in association with the development of the land for residential use. This is not only in the interests of highway safety but also because there are existing footways on the west side of this Hallgate, to the north and south of the site, to which the required footway would connect and thereby provide continuity of this route to avoid un-necessary crossing and re-crossing of the carriageway.

### Planning Considerations

Highway Safety and Impact Upon the Highway

Lincolnshire County Council as Lead Local Highway Authority has been consulted on this application and finds that the proposal to remove condition 12 would not be in the interests of highway safety. This is because a lack of a continuous footpath to the entrance of the proposed properties on the Western side of Hallgate to the North would cause unnecessary crossing and recrossing of the road. Furthermore, the inclusion of a footpath at the entranceway to the approved properties provides a 'staging' area for crossing the road directly from the approved properties and prevents occupants or visitors of the approved properties from walking directly out onto the highway when leaving the site by foot . As this is the case, the Local Planning Authority considers this application to have an adverse effect upon local roads and therefore, as outlined in Paragraph 3.3.7

of the South East Lincolnshire Local Plan (2019) (SELLP) this proposal is considered to be contrary to Policy 2 of the SELLP.

Furthermore, in this case, it is clear that extension of the existing footpath is a practicable proposal to make and therefore, this application, to remove the requirement for the extension of the extant footpath falls foul of Policy 3 of the SELLP as defined under Paragraph 3.4.6 of that document where it is stated that;

*A development should incorporate existing public rights of way and cycleways and where practicable extend them, to encourage residents to walk or cycle to places of work, school, local shops and services as well as open space..*

Heritage Impact

The Local Planning Authority does not consider there to be any risk presented to the value or significance of the Historic Environment this is because the proposal to remove the proposed footpath would have an inappreciable impact upon the character of this portion of the Conservation Area. It is the case that the western side of Hallgate in this area does mostly feature a footpath, but it is not considered that the inclusion of a footpath is a contributive element of the Conservation Area. Therefore, this application is considered to assist in Conserving the Historic Environment due to its lack of an impact.

**Conclusion**

For the reasons listed above, this application is found to be in contravention of Policies 2 and 3 of the South East Lincolnshire Local Plan (2019). Therefore, this application is recommended for refusal.

**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.