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PE11 2XE
Admin 01775 764723
DC Officers 01775 764703
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Status Design
2 Edinburgh Walk
Holbeach
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Lincs
PE12 7AP

# TOWN AND COUNTRY PLANNING ACT 1990
# SECTION 73 MODIFICATION

**Reference:** H05-0555-20 **Date of Decision:** 14th September 2020

**Applicant:** Mr D Barker
14 Mallow Close
Ely
Cambs
CB6 3WH

**Location:** Off Hallgate Church End Fleet Spalding

**Description:** Proposed 2 houses and garages - approved under H05-0905-19. Removal of Condition 12 relating to 1.8m footway

## South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 The Lincolnshire County Council Highways Authority have determined that the proposal to remove Condition 12, dispensing with the requirement for a footpath at the site would be detrimental to highway safety. Therefore, this proposal must be deemed to have an adverse effect upon local infrastructure, meaning that this application is in direct contravention of Policy 2 of the South East Lincolnshire Local Plan (2019) (SELLP) as defined under paragraph 3.3.7 of the SELLP.

Furthermore, to remove condition 12, resulting in the removal of the requirement for the extended footpath where it is clearly practicable would be in direct contradiction with paragraph 3.4.6 of the SELLP, under Policy 3 of that document, in that, the requirement of the policy set out under paragraph 3.4.6 is that development should extend existing footpaths where it is a practicable option.

Notes:

The determined plans are:

Application Form
Supporting Statement ref: SD18-046 SS

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

The applicant is reminded that with this refusal, all of the conditions as applied to application H05-0905-19 remain in place.



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

# RIGHTS OF APPEAL

## Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

## Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

| 12 Weeks | 6 Months | 8 Weeks |
|---|---|---|
| Householder Applications | Planning Permission | Consent to Display Adverts |
| Minor Commercial Development | Listed Building Consent | |
| Agricultural Determinations | Other Prior Approval Applications | |
| Householder Prior Approval Applications | | |

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

## Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

## Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

## Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.