

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H05-0725-22	Applicant:	Belmont Contractors Ltd.
Proposal:	Residential development of 9 dwellings - approved under H05-1124-21. Modification of Conditions 2 (Determined Plans), 7 (Boundary Treatment), 8 (Site/Finished Floor Levels) and 10 (Foul Drainage) to allow amendments to previously approved plans.		
Location:	Land Off Main Road Fleet Hargate Spalding		
Terminal Date:	10th January 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
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development.
Section 3. Plan making.
Section 4. Decision making.
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.
Section 15. Conserving and enhancing the natural environment.
Section 16. Conserving and enhancing the historic environment.

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
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

PROPOSAL

Full planning permission was granted for 9 dwellings on 21 February 2019 (ref. H05-1235-18). The scheme consisted of 6 no. 3 bed houses and 3 no. 4 bed houses.

An application was subsequently submitted (ref. H05-1124-21) to modify condition 10 to allow finished floor levels (FFLs) to be raised above 300mm for drainage reasons within the site, which slopes down from Old Main Road. This was other than plots 8 and 9, which remained at approximately 300mm and relied upon a private foul drainage pumping system for those plots. Permission was granted in February 2022 and some drainage works have been carried out.

This application is to modify the permission and the revisions are essentially outlined below:

- Modify condition 7 to allow the construction of rear boundary screening associated with plots 8 and 9 that consists of concrete gravel board with 1.8m high close boarded fencing above (total height above ground 2 metres);
- More specific details have been provided of the private drainage pumping system in relation to plots 8 and 9;
- Perimeter filter drains have been provided to each property;
- The finished floor level of the garage associated with plot 5 has been raised by 230mm from 3.320m aOD to 3.550m aOD to improve the drive gradient.

As background information, condition 7 of H05-1124-21 is as follows:

7. Prior to commencement of any dwelling beyond oversight, and notwithstanding the details accompanying the application, full details of all new fencing shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme of fencing shall be completed in accordance with the approved details prior to occupancy of any dwelling and shall thereafter be retained.

Note: All rear and side fencing associated with plots 8 and 9 should be set on a dwarf brick wall to prevent water penetration onto adjoining land and also to prevent the fence from deteriorating. The dwarf wall/fencing along the eastern boundary associated with plots 8 and 9 should have a total height of 2 metres.

Reason: In the interests of the character and appearance of the estate and also the amenity of future occupiers and neighbouring residents.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

SITE DESCRIPTION

The site (some 0.44ha) is grassland located on the northern side of Old Main Road, Fleet Hargate. Hedging and a bus stop are located along the site's frontage. A drain and a number of trees (including 2 preserved Oaks) are situated along its northern boundary.

A bungalow is situated to the west (Broadlands) and a house to the east (Haven House) along the frontage. A bungalow (Staughton Lodge) and house (Etna House) are located to the north-east and a bungalow (Amendoeiras) to the north beyond trees and shrubs along the northern boundary.

Suffolk Cottage is situated to the south-east. Residential properties are located on the opposite side of Old Main Road.

RELEVANT PLANNING HISTORY

H05-0372-17 - Full - Residential development - erection of 9 dwellings - Granted 5 November 2018.

H05-1235-18 - Full - Residential development of 9 dwellings (Re-submission of H05-0372-17) - Granted 21 February 2019.

H05-0459-20 - Condition Compliance - Details of Conditions 3, 4, 6, 7, 8, 9, 11, 12, 14, 15, 18, 19, 20, 21, 22 and 23 of H05-1235-18 - Withdrawn 23 February 2022.

H05-1124-21 - S73 - Residential development of 9 dwellings - approved under H05-1235-18. Modification of Condition 10 relating to Flood Risk Assessment - Granted 18 February 2022.

REPRESENTATIONS

Fleet Parish Council

Section 73 modification is something that needs careful scrutiny since any modification, however well-intentioned, needs to be scrutinised by SHDC Planning Department and not just waived through. Without this scrutiny, significant material changes could be made which might not be in keeping with planning governance. Because of this Fleet Parish Council object to this application

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

Public

Objections/concerns received (summarised):

- Been shown on numerous occasions that water exiting the site fills the adjacent ditch after heavy rainfall;
- Plans still show a general fall towards the boundary, thus making the wall necessary to retain and direct water from neighbouring property. Also, the added risk of foul water drainage pumps malfunctioning on plots 8 and 9 raises serious concerns;
- The required wall in condition 7 is the best solution to date to protect neighbouring property by forcing surface and underground water away from the boundary, thus into the re-aligned ditch and pipe system. Council should insist upon the use of engineering bricks in the construction of the new wall;
- Proposed boundary treatment inadequate to prevent water run-off onto neighbouring property. The use of gravel boards that do not extend down to sub soil layer will not hold back any water. The perimeter drain around the adjacent plots is shown to use gravel to allow water percolation down to sub soil levels. Thus increasing the necessity of the gravel boards down to sub soil levels;
- The proposed use of gravel boards slotting into concrete posts does not form a near perfect joint to stop water run-off onto neighbouring property. Similarly, if two gravel boards are fixed one above the other there would be another joint all the way down the eastern boundary that would let water through;
- Gravel board should extend into the ground by at least 500mm with 150/200mm out of the ground with all joints suitably sealed to prevent seepage through;
- A gravelled French drain type channel along the development side of the fence with its outfall to the northern dyke would create a 100% answer to keep flood water off neighbouring property.

Information from Applicant's Agent

Two metre height fence for overlooking reasons makes sense. Measures seem unnecessary to prevent surface water run-off when the levels to the rear gardens to plots 8 & 9 remain the same as existing, but nevertheless agree to use of gravel boards.

PLANNING CONSIDERATIONS

The main issues in this case are:

- Whether the proposed revisions are acceptable in terms of the relationship of the development to neighbouring property, including possible surface water run-off;
- Whether the submitted details relating to outstanding conditions attached to H05-1124-21 are acceptable.

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.

Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019 essentially indicate that new development should be in character and appearance and have a satisfactory relationship with existing development. They also set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

Policy 4 of the SELLP indicates that the development should demonstrate that satisfactory drainage already exists or can be provided in time to serve the development.

The main properties that are affected by the proposed modification are a bungalow (Staughton Lodge) to the east and Suffolk Cottage to the south-east. A bungalow (Amendoeiras) is situated to the north beyond trees and shrubs along the northern boundary.

In terms of levels, Old Main Road immediately in front of the site is in the region of 4.43m aOD. The highest part of the site is 4.30m aOD alongside the road sloping down to 3.25m aOD approximately in the north-eastern corner. The eastern boundary slopes from 3.65m aOD immediately behind Haven House to 3.25m aOD approximately in the north-eastern corner. The finished floor level (FFL) of Plot 1 fronting Old Main Road is 4.35m aOD, which is approximately 500mm above existing ground level. Plots 5-7 at the rear have FFLs of 4.45m aOD and 4.425m aOD respectively, which is approximately 1.1 metres above existing ground level.

The house on plot 8 adjoining Staughton Lodge has a FFL of 3.62m aOD and the house on plot 9 has a FFL of 3.84m aOD. Ground levels in relation to plots 8 and 9 remain fundamentally unaltered and finished floor levels are in the region of 300mm above existing ground level. Profuse planting presently exists along the rear boundary between the site and properties to the north.

The houses on plots 8 and 9 are relatively close to the eastern boundary. Rear first floor windows facing Staughton Lodge on Plot 8 serve an en-suite, landing and bathroom respectively. Plot 9 has no first floor windows on its southern elevation facing Haven House. Whilst it has a bedroom window on its rear elevation, overlooking of neighbouring dwellings would either be oblique or at an acceptable distance. 2 metre high fencing is proposed along the eastern boundary. This arrangement should adequately protect the amenity of neighbouring residents in terms of overlooking/lack of privacy.

Concerns have been raised concerning surface water run-off onto neighbouring property to the east. In respect of this matter, the ground levels within the rear gardens of plots 8 and 9 remain fundamentally the same as those existing and are almost horizontal, the only exception being within the northern area associated with plot 8 where there is an incline of some 100mm down to the neighbouring boundary. Nevertheless, given the concerns raised, the applicant has now agreed to the use of 600mm concrete gravel boards set 400mm below the ground with 1.8m high close boarded fencing above set between concrete posts as a safeguarding measure. Sealant would be used in gaps between the posts and gravel boards.

It should be noted that there will be a change in ground levels between the proposed road and the houses on plots 8 and 9. Concern has previously been raised concerning surface water run-off/localised flooding within this area. Condition 10 of H05-1124-21 was therefore imposed requiring details of the installation of a drainage channel or French drain along the front/side of the dwellings and associated garages on plots 8 and 9.

In respect of this matter, the applicant's agent has indicated the following:

"The areas to the front of plots 8 & 9 will be soft landscaping allowing any rainfall to percolate into the ground. Both the structure of the buildings and the retaining walls will prevent direct surface water run-off. Where walls are provided they will be provided with weep holes to allow the slow

release of excess water that does not fully percolate into the ground. This is standard practice to avoid structural failure due to excessive loading from water built up behind the wall. From the GI report it appears that the groundwater level is a minimum of 1.95m below the existing ground level which should allow percolation well below the ground levels around plots 8 & 9. The drives to both plots are designed to be permeable and therefore there is no surface water run-off."

In accordance with condition 10 of H05-1124-21 it should also be noted that a gravel perimeter drain will be provided around the properties on plots 8 and 9 to allow percolation of surface water to the sub soil below. The domestic driveways would be permeable paving and the single detached garage on plot 8 would have a threshold channel feeding into a porous sub-base.

The submitted plans include details of private foul water pumping stations on plots 8 and 9, which are required as a consequence of FFLs being lowered in accordance with the terms of the previous permission (ref. H05-1124-21). Concerns have been raised over possible failure/malfunction and consequent flooding of neighbouring property. This matter has been taken up with the applicant's agent, who has responded as follows:

"The foul pumps that are included in plots 8 & 9 are designed to include a minimum of 900 litres storage to allow for temporary storage should there be either a failure of power or the pump itself. The developer will agree a maintenance schedule with the pump suppliers and details will be passed on to the homeowners along with information and emergency contact details. These types of pumps have an audible and visual alarm when they fail so the occupier is aware very quickly that there is a problem and most maintenance schedules allow for 24 hour call outs to resolve problems."

Details submitted relating to condition 19 (re-location of bus stop) of H05-1124-21

The submitted Site Layout Plan (dwg. no. 356.PL.03 Rev E) and Section 38 Plan (dwg. no. 356.FH.300 Rev K) indicate that the existing bus stop fronting the site would be re-located to the west of the new entrance.

Planning Balance

The proposal relates to revised boundary treatment along the eastern boundary at the rear of plots 8 and 9. Following concerns raised, the applicant has agreed to 600mm concrete gravel board set 400mm below the ground with 1.8m high close boarded fencing above (total height above ground 2 metres). It also includes details of the private drainage pumping system to be provided in respect of plots 8 and 9 and the installation of perimeter filter drains in respect of each property. The finished floor level of the garage associated with plot 5 would also be raised by 230mm from 3.320m aOD to 3.550m aOD to improve the drive gradient.

The proposed revisions are acceptable in terms of the relationship of the development to neighbouring property and also drainage issues. They are in accordance with the general provisions of the development plan and there are no material considerations that outweigh factors in favour of the proposal.

Conclusion

For the reasons outlined above the planning balance lies in favour of the proposal.

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

That the application be approved under delegated powers, subject to conditions.