DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0892-23**	**Applicant:**	**Holbeach House Management Company Ltd**
Proposal:	Details of the management company responsible for the upkeep of grounds, access roadway and footpaths, maintenance of buildings and waste disposal (Condition 23 of H05-0077-16)		
Location:	Fleet Mews Orchard Park Fleet		
Terminal Date:	8th January 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
30	Pollution

National Guidance

National Planning Policy Framework 2023

Section 2. Achieving sustainable development.
Section 12. Achieving well-designed and beautiful places.
Section 15. Conserving and enhancing the natural environment.
Section 16. Conserving and enhancing the historic environment.

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Permission was granted under S73A for conversion of a redundant health facility into 14 dwellings and erection of 18 terraced dwellings with parking facilities in March 2016 (ref. H05-0077-16). This application is to discharge condition 23. It is a re-submission following a previous refusal (ref. H05-0780-19).

It is noted that there is a later S73A approval relating to the site (ref. H05-0636-19), including a similar condition (no. 22). However, this application is to discharge condition 23 of H05-0077-16 and has therefore been assessed on that basis.

Site Description

The site is occupied by a former health facility (Orchard House - grade II listed) that has been converted to residential units, plus the erection of 18 terraced dwellings in 3 blocks to the east. It is located to the rear of Holbeach House (grade II listed), with shared vehicular access off Fleet Road.

Relevant Planning History

H05-0181-08 - Full - Convert former hospital into 13 apartments, including erection of single-storey and two-storey extensions - Non determination 9 May 2011.

H05-0182-08 - LBC - Convert former hospital into 13 apartments, including erection of single-storey and two-storey extensions - Non determination 9 May 2011

H05-0563-11 - Full - Conversion of redundant health facility into 14 dwellings and erection of 18 terraced dwellings complete with parking facilities - Approved 1 November 2011.

H05-0564-11 - LBC - Conversion of redundant health facility to form 14 dwellings and associated parking - Approved 1 November 2011.

H05-0945-15 - Cond Comp - Details of Conditions 2, 3, 4, 5, 6, 10, 11, 12, 13, 14, 15, 16, 17, 18 and 19 of H05-0077-16 - Part approved, part refused July 2016.

H05-0946-15 - Cond Comp - Details of Conditions 2, 3, 5 & 6 of H05-0078-16 - Approved July 2016.

H05-0077-16 - S73A - Conversion of redundant health facility into 14 dwellings and erection of 18 terraced dwellings with parking facilities - approved under H05-0563-11. Modification of Condition 2 of H05-0563-11 to allow amendments to previously approved plans - Approved 24 March 2016.

H05-0078-16 - S73A - Conversion of redundant health facility to form 14 dwellings and associated parking - approved under H05-0564-11. Modification of Condition 2 to allow amendments to previously approved plans - Approved 24 March 2016.

H05-0737-16 - Cond Comp - Details of existing and proposed site levels and proposed floor levels, contamination report, large scale details, foul surface water disposal, materials of construction and design and means of enclosure and external illumination (Conditions 2,4,15 (part), 17,18 and 19 of H05-0077-16). Approved 24 March 2020.

H05-1079-17 - Conversion of redundant health facility into 14 dwellings and erection of 18 terraced dwellings complete with parking facilities - approved under H05-0563-11 - Modification of Condition 2 to allow amendments to previously approved plans. Withdrawn February 2018.

H05-0128-18 - Full - Conversion of existing terraced dwelling (unit 14) to 2 apartments - Approved 24 March 2020.

H05-0129-18 - LBC - Conversion of existing terraced dwelling (unit 14) to 2 apartments - Approved 24 March 2020.

H05-0130-18 - Full - Conversion of existing terraced dwelling (unit 12) to 3 apartments - Approved 11 June 2018.

H05-0131-18 - LBC - Conversion of existing terraced dwelling (unit 12) to 3 apartments - Approved 11 June 2018.

H05-0636-19 - S73A - Conversion of redundant health facility into 14 dwellings and erection of 18 terraced dwellings with parking facilities - approved under H05-0077-16 - Removal of Condition 3 relating to affordable housing - Approved 24 March 2020.

H05-0780-19 - Cond Comp - Details of site management company responsible for upkeep of grounds, access roadway, etc (Condition 23 of H05-0077-16) - Refused 6 July 2023.

Consultation Responses

LCC Highway and Lead Local Flood Authority

No objections.

Environmental and Operational Services

We have never entered onto this site because the roadways are not suitable for our vehicles. The indemnity that we have now, as agreed through report to councillors, is much more extensive and is based on a number of factors, including roads being of a suitable standard for us to drive upon. I do not believe that this would meet the criteria of that.

The development in question does not meet any of the possibilities for exceptional consideration, and in particular the standard of the roadway is not acceptable for 26t refuse vehicles to enter.

Planning Considerations

The application is to discharge condition 23 of H05-0077-16, which is as follows:

"Prior to the first occupation of the development hereby permitted the applicant shall submit to and have approved in writing by the Local Planning Authority details of a site management company responsible for the upkeep of grounds, access roadway and footpaths, maintenance of buildings and waste disposal. The management company shall be formed in accordance with the details so approved before the development is first occupied, and shall thereafter remain in place.

Reason: To ensure that the site is maintained and household waste disposed of in a satisfactory way, in the interests of the amenities of residents.
This Condition is imposed in accordance with Policy SG17 of the South Holland Local Plan 2006."

The applicant has indicated that the management company in this case is Holbeach Property Management Company Ltd. The Articles of Association for the management company state that the Company's objects include the following: "to provide services of every description in relation to the Managed Property and to maintain, repair, renew, redecorate, repaint, clean, construct, alter and add to the Managed Property and to arrange for the supply to it of services and amenities and the maintenance of the same and the cultivation, maintenance, landscaping and planting of any land, gardens and grounds comprised in the Managed Property and to enter into contracts with builder, tenants, contractors and others and to employ appropriate staff and managing or other agents accordingly". This appears to cover the management company's responsibilities in condition 23, with the exception of waste. Waste disposal could be included within "services" but it is understood that this is not the developer's intention.

The applicant has argued that the condition does not require the applicant to provide how the services will be provided, only details of the Site Management Company which is responsible for providing these services. In reply, the condition indicates that "the management company shall be formed in accordance with the details so approved before the development is first occupied, and shall thereafter remain in place." Moreover, the reason for the condition states that it is "to ensure that the site is maintained and household waste disposed of in a satisfactory way, in the interests of the amenities of residents". It is therefore considered that the reference to "details" also requires details of how the management company will deal with each of the issues, including waste.

The current arrangement is that South Holland District Council is collecting refuse from the roadside. The Council will not enter the site because the private internal roadways are not to an appropriate standard for use by Council refuse collection vehicles. As such, it is not prepared to enter into an indemnity agreement in this case. This approach is consistent with the Council's Guidance Note on Private Drives - Waste Vehicle Collection Service.

The developer maintains that he has the Council's approval for waste collection and that an indemnity agreement was previously entered into. However, no firm evidence to support this has been submitted. Whilst a former Council employee(s) has previously indicated that the Council would be prepared to enter the site, subject to an indemnity agreement, this was some time ago and was solely informal advice at the time. The current stance adopted by Environmental and Operational Services is that the internal roadways are unsuitable for use by its refuse vehicles. Any

informal statement previously made by a former employee is not sufficient to justify an exception.

As it stands, therefore, it is considered that condition 23 has not been complied with and that the current arrangements are unsatisfactory. Presently, some residents are depositing refuse in bin stores, etc on site that is not being collected or put out for collection on a regular basis. Alternatively, some are depositing bags at the site's entrance for considerable periods of time awaiting collection by South Holland District Council. This arrangement is materially harmful to the amenity of both existing occupiers on the site and also that of nearby or neighbouring residents.

The applicant has argued that the Council is statutorily bound to collect waste from the site. However, the Council is not under any statutory duty to collect waste from private drives. The Council's statutory duty extends only to collecting waste, and the Council, as waste collection authority, can determine the collection point of that waste. The collection point is usually adjacent the adopted public highway.

Reference has been made to an appeal decision in Blaby, Leicestershire, where the Waste Collection Authority (WCA) declined to enter a shared private access to collect waste due to possible damage and liability claims. The applicant has drawn attention to the Inspector's comments that the Council's Waste Guidance was only guidance and not part of the development plan. Nevertheless, the Inspector also agreed that the approach taken by the WCA was reasonable and that a private waste collection service be provided. Whilst each case should be assessed on its own individual merits, such an approach is considered to be the way forward in this instance, as required by condition 23.

Conclusion

The applicant has not provided satisfactory details of how the management company will deal with the disposal of refuse from the site, as required by condition 23. The current waste collection arrangement is considered unsatisfactory and materially harmful to the amenity of residents. As such, it is contrary to Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (SELLP), 2019. Policy 2 states that sustainable development considerations should be met in relation to impact on the amenity of an area. Policy 3 states that new development should be high quality and secure residential amenity, with the provision of facilities for the storage of refuse. Policy 30 indicates that development proposals will not be permitted where, taking into account of any mitigation measures, they would lead to unacceptable adverse impacts upon the health and safety of the public, the amenities of the area and air quality, including odour.

Policies 2, 3 and 30 of the SELLP are in accordance with advice within the National Planning Policy Framework, 2023. Paragraphs 131 and 133 promote the creation of high quality, beautiful and sustainable buildings and places. Paragraph 135 states that planning policies and decisions should ensure that developments function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development. It also stresses that planning decisions should create places that are safe and which promote health and well-being, with a high standard of amenity for existing and future users.