

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H05-1007-23 **Applicant:** Belmont Contractors Ltd

Proposal: Residential development of 9 dwellings - approved under H05-0725-22. Modification of Condition 1 (determined plans), 2 & 3 (windows) and 7 (fencing details) to allow amendments to previously approved plans

Location: Land Off Old Main Road Fleet Hargate Spalding

Terminal Date: 1st February 2024

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 2023

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 and beautiful 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	0	0	0	0
WARD MEMBER	1	0	0	0

HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

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

Two applications have since been approved to modify the scheme (ref. H05-1124-21 and more recently H05-0725-22 in January 2023). They mainly related to a raising of ground and finished floor levels (other than plots 8 and 9) to accommodate gravitational drainage, plus ancillary works/measures and revisions to the fencing along the eastern boundary. Work has now commenced on site.

This application is to modify application ref. H05-0725-22 and the revisions include the following:

- The removal of chimneys to plots 4, 5, 8 and 9 and the addition of solar panels.
- The installation of "Heritage Rose" uPVC sliding sash windows on the front elevation of plot 1 and "Residence 9" uPVC casements to all other plots in lieu of timber windows.
- Alterations to the boundary fence construction, including fencing along the eastern boundary.

As background information, condition 7 of H05-0725-22 is as follows:

7. Notwithstanding the approved details, the new fencing along the eastern boundary of the site (as outlined in light blue on dwg. no. 500.EWP.02D) shall consist of 600mm Concrete Gravel Boards set 400mm below ground with 1.8m Close Board fencing above set between concrete posts. All gaps between the gravel boards and concrete posts shall be sealed in accordance with the approved details. The fencing shall be completed prior to occupancy of any dwelling and shall thereafter be retained in its entirety.

Reason: In the interest of the amenity of neighbouring residents.

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

SITE DESCRIPTION

The site (some 0.44ha) is located on the northern side of Old Main Road, Fleet Hargate. A bus stop is located along the frontage. A drain and a number of trees (including 2 preserved Oaks) are situated along the site's 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 House is situated to the south-east. Residential properties are located on the opposite side of Old Main Road.

The site is located within Fleet Hargate Conservation Area.

RECENT 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.

H05-0725-22 - S73 - 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 - Approved 4 January 2023.

H05-0660-23 - TWC - Works to trees (felling of 3 no conifers) in Fleet Hargate Conservation Area - Approved 30 August 2023.

H05-0696-23 - Condition Compliance - Details of remediation strategy (Condition 22 of H05-0725-22) - Approved 9 January 2024.

CONSULTATION RESPONSES

Fleet Parish Council

No response received.

Cllr P S Barnes

My understanding is that this development is within a conservation area and a compromise was accepted that plastic windows could be used in the houses at the rear but that wooden windows must be used in the property facing Old Main Road to maintain the appearance of the Main Street. A previous application for plastic windows to be installed in a property on the same road was refused and therefore a precedent has been set and the application to change the window material should be refused.

LCC Highways/SUDs

No objections.

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, the following objections/concerns were received (summarised):

- Fitting of plastic windows not permitted because within Conservation Area. Other property owners have installed uPVC and have been made to remove them.

- Durable concrete posts have been replaced by inferior flimsy "tin" posts along eastern boundary. Concrete posts should be re-installed.

KEY PLANNING CONSIDERATIONS

The main issues in this case are whether the proposed revisions are acceptable in terms of their affect upon the character and appearance of Fleet Hargate Conservation Area and the amenity of neighbouring property, including surface water run-off.

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 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 (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The Authority is also able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment (March 2023).

Section 73 Assessment

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The Planning Practice Guidance, under Paragraph 31, details this further by stating that "In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application - it is not a complete re-consideration of the application".

For the purpose of clarity, decision notices for the grant of planning permission under Section 73 should set out all of the conditions imposed on the new permission, and reinstate the conditions imposed on earlier permissions that continue to have effect.

Taking all of the above into account, the Local Planning Authority are content that the proposed amendments can be considered under a variation application, via a Section 73 application.

Design and consideration of the character and appearance of the Conservation Area

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 (December 2023), 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.

The site is located within Fleet Hargate Conservation Area. Policy 29 (The Historic Environment) states, amongst other matters, that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework. Development proposals will be expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

These policies accord with the provisions of the National Planning Policy Framework (December 2023) 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.

Section 12 of the Framework specifically relates to 'achieving well-designed and beautiful 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 135 of the Framework 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, layout and appropriate and effective landscaping. It should also be sympathetic to local character and history, including the surrounding built environment and establish

a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live.

Paragraph 203 of the Framework relates to heritage assets and states that local authorities should take account of "the desirability of new development making a positive contribution to local character and distinctiveness." Paragraph 207 goes further and indicates that "where a proposed development will lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent."

Furthermore, in respect of any buildings or other land in a conservation area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990.

Proposals for new development 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.

Chimney stacks

It is proposed to remove the chimney stacks on plots 4, 5, 8 and 9. The approved scheme currently includes chimney stacks on plots 1, 4, 5, 8 and 9, but not on plots 2, 3, 6 and 7. At present, therefore, there is some inconsistency, with some plots having stacks and some not.

In terms of the general character of the locality, many of the traditional period dwellings fronting Old Main Road have chimney stacks. However, there are a number of more recent properties, including those set back, that don't. The most sensitive property is plot 1 facing Old Main Road, where the chimney stacks would be retained. In respect of the remaining plots, it would be difficult to refuse the scheme in the absence of chimney stacks given that they are positioned further back within the cul-de-sac, plus the inconsistency referred to earlier.

On balance, therefore, it is considered that the proposal satisfactorily accords with Policies 2, 3 and 29 of the SELLP and the provisions of the National Planning Policy Framework (December 2023).

Solar panels

It is now proposed to include solar panels on the roof of all the properties, including on the front elevation of plot 1 because it is south facing. Although they would have a harmful impact upon the design of the properties and the character and appearance of the Conservation Area, it would be less than substantial.

Paragraph 208 of the Framework states that "where a development will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal." In determining this matter, consideration should be given to Section 14 of the Framework, which supports the use of renewable energy and the transition to a low carbon future in a changing climate. It goes on to support the installation of heat pumps and solar panels, but does stress that "where proposals would affect conservation areas, planning authorities should also apply the policies set out in Chapter 16 of the Framework."

On balance, given the increasing importance of the transition to renewable energy and a low carbon future, the proposed solar panels are considered acceptable given that they would cause less than substantial harm to the character or appearance of the Conservation Area.

Therefore, while it is considered that less than substantial harm may be caused, the benefits are considered to outweigh this, in accordance with Policy 29 of the South East Lincolnshire Local Plan and Section 16 of the National Planning Policy Framework (December 2023).

Windows

The approved scheme includes timber windows; namely, sliding sash on the front elevation of plot 1 and casements elsewhere.

It is now proposed to install uPVC, which is not normally considered acceptable within conservation areas. In this case, however, high quality conservation uPVC windows are proposed; namely, "Heritage Rose" uPVC sliding sash on the front elevation of plot 1 and "Residence 9" flush uPVC

casement windows elsewhere. They are specifically designed for conservation areas and are of a high standard of design and not readily indistinguishable from traditional timber windows. It should be noted that the R9 windows are flush so do not possess the normal characteristics of a standard uPVC window.

It should be noted that uPVC windows were refused on the Rose and Crown Public House along Old Main Road back in November 2013 (ref. H05-0824-13) and subsequently dismissed on appeal. However, the windows in that particular case were not conservation uPVC windows and had the appearance of standard uPVC.

On balance, therefore, it is considered that the proposal satisfactorily accords with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (December 2023).

Impact on the amenity of neighbouring residents, including surface water run-off

This relates mainly to alterations to construction of the boundary fencing, including along a section of the eastern boundary. Other modifications, including the provision of solar panels, would not significantly affect neighbouring residents.

Policies 2 and 3 of the 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.

Paragraph 135 of the National Planning Policy Framework (December 2023) 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. Section 14 of the Framework indicates at paragraph 165 that where development is necessary the development should be made safe for its lifetime in flood risk terms without increasing flood risk elsewhere.

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

Condition 7 of H05-0725-22 relates to fencing along the eastern boundary and included measures to ensure a robust fence and prevent surface water run-off onto the neighbouring properties. This was pursuant to concerns raised regarding possible surface water run-off onto neighbouring property to the east. In this respect, 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. Consequently, surface water run-off onto neighbouring property should not be a significant problem. Nevertheless, as a safeguarding measure, a condition was imposed requiring 600mm Concrete Gravel Boards set 400mm below ground with 1.8m Close Board fencing above set between concrete posts. All gaps between the gravel boards and concrete posts should be sealed.

The main difference between the current proposal and that approved is the use of timber clad galvanised steel "Durapost" fence posts/supports as opposed to concrete posts in respect of fencing 1.8m high and above, including fencing along the eastern boundary. The latter has already been erected.

According to the applicant, the posts in question were chosen because "the size of post required along the eastern boundary was not readily available, so I looked at other options and came across this post. For us as a company it ticked multiple boxes, mainly the weight of this post compared with a concrete post meant it was a lot safer to lift and man handle by one person - the concrete equivalent being approx 80kgs." He goes on to confirm that "the gravel boards have been sealed as per the condition."

Whilst the "Duraposts" may appear rather flimsy, they are actually galvanised steel and have a H cross-section to provide strength and durability. The technical specification indicates that they are capable of withstanding strong winds up to 110mph and come with a 25 year guarantee. They are considered an acceptable alternative to concrete posts and preferable to timber.

The proposal satisfactorily complies with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework in this respect.

Planning Balance

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 proposed revisions are acceptable, on balance, in terms of their impact upon the character and appearance of Fleet Hargate Conservation Area and the amenity of neighbouring residents. They are in accordance with the general provisions of the development plan as a whole and there are no material considerations that outweigh factors in favour of the proposal.

CONCLUSION

Taking the above considerations into account, the proposal is considered to be generally in accordance with Policies 2, 3, 4, 29 and 31 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (December 2023). There are no significant factors in this case that indicate against the proposal and outweigh the considerations in favour of the proposal and the policies referred to within the development plan as a whole.

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 approved conditionally under Delegated Authority.