DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-0415-24**	**Applicant:**	**Mr G Franklin**
Proposal:	Change of use of vacant public house (Use Class Sui Generis) to single dwelling (Use Class C3(a))		
Location:	The Chequers Main Street Gedney Dyke		
Terminal Date:	26th July 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
17	Providing a Mix of Housing
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE	0	0	0	1

BOARD				
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for a change of use of The Chequers Public House to a single dwelling. It should be noted that the building/land was removed from the Community Asset Register, Unsuccessful Nominations, on the 22nd August 2022.

Site Description

The site is located on the western side of Main Street, Gedney Dyke close to the southern fringe of the village. It is occupied by a former restaurant and bar, plus an associated car parking area. Houses are situated to the north and south of the site, plus opposite.

History

H06-0246-18 - Full - Change of use from public house to two dwellings - Withdrawn 30 July 2018.

H06-0210-21 - Full - Change of Use from Public House to two dwellings, including alterations.- Approved 01 June 2021

Consultation Responses

Initial Responses Received (Consultation period between 20th May 2024 - 11th June 2024)

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Senior Ecologist

Having looked at the plans, I would agree that this application meets the de minimis exemption, and not subject to BNG. However, when I looked at the site on google maps, it appears that not all the existing trees on the google maps image are included in the application documents, (there are one or more trees growing in the middle of the development site adjacent to the beer garden of the Chequers). If these trees have been previously removed then all well and good, but if they are currently there, then there's likelihood that the planning application is subject to the BNG requirement. In this case, I could imagine that they might be able to meet the 10% gain on-site within the development.

Following a site visit it was confirmed that the trees had been removed and following was received from the Senior Ecologist.

Yes, I agree that this application would then qualify as a de minimis exemption, as there is no habitat loss, and thus any potential garden landscaping will enhance the biodiversity on the site.

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We would typically recommend that the proposed discharge to soakaway is supported by infiltration testing in line with BRE Digest 365 (or equivalent) to evidence whether the soakaways can work efficiently. As a change of use application, if the soakaways have already been installed we would ask that you as the LPA satisfy yourselves that this system is viable in this location without increasing flood risk on or adjacent to the site.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3. If the applicant believes that this site already has consent for the discharge of treated foul water to a watercourse, I would request that they contact us to discuss.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the western site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

SHDC Environmental Protection Officer

No comments

Gedney Parish Council

Council has no objections to this application.

LCC Highways/SUDs

Requested additional information - Width of access to be detailed on proposed site plan. Visibility to be demonstrated in accordance with Manual for Streets.

Responses Received within Re-consultation (Consultation period between 27th June 2024 - 07th July 2024)

Recommendation: No Objections

The proposal is for the change of use of vacant public house (Use Class Sui Generis) to single dwelling (Use Class C3(a)). The width of the proposed access has been detailed on the proposed site plan of 4.4m which is adequate and the visibility has been demonstrated. The visibility to the south west is in accordance with Manual for Streets but to the north east it is somewhat short of 43m and can only achieve 35m. I am satisfied that the frontage is wide
enough to allow vehicles to edge out with care giving drivers adequate visibility to enter the highway with caution and when it is clear to do so. The dropped kerbs to the proposed access exist but the actual crossover will need constructing to Lincolnshire County Council Specification. The proposal will not result in an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory
planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this

planning application.

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, two letters of representation have been received.
These can be summarised as follows:

-Residential amenity impact to occupiers in dwellings opposite.
-Traffic concerns as the site is too close to the junction
-Visibility is poor
-Access arrangements are unsafe
-Concerns regarding the amount of bathrooms proposed
-Not in keeping with the locality

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted 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.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

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

Principle of Development and Sustainability

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within 'Other Service Centres', development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within Minor Service Centres will normally be limited to Allocated and Committed sites and infill.

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The application site in this instance is within Gedney Dyke, a 'Other Service Centre', and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location is considered to be appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy.

Furthermore, Policy 32 specifically relates to community facilities. It states that the redevelopment or change of use of an existing community facility will be permitted only if an assessment has been undertaken which has clearly shown that the facility is:

a. surplus to requirements; or
b. not economically viable; or
c. unfit for purpose

The assessment against Policy 32 was carried out under application H06-0210-21, and it was concluded at the time that the applicant had satisfactorily demonstrated that the public house was no longer sustainable/commercially viable.

Since application H06-0210-21, the public house has been removed from the Community Asset Register, with Unsuccessful Nominations, on the 22nd August 2022 (having closed in 2017) as the council was satisfied that the listing of The Chequers no longer met the required tests.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 and Policy 32 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) 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, contained within Section 12 of the National Planning Policy Framework (December 2023), 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 and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments 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, among other considerations.

Likewise, 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, 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.

These policies accord with the provisions of the National Planning Policy Framework 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.

Proposals for new development would 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.

The conversion of the building into residential would ensure the buildings long-term conservation. Some external alterations are proposed at the side, rear and internally. The alterations include the removal of The Chequers sign to the south east elevation, the removal of four windows and the openings filled in to the north east elevation, the relocation of the door on the south west elevation, an additional ground floor window to the north west elevation and the removal of a low level garden wall. It is considered that the alterations are all relatively minor and would not materially harm the character or appearance of the existing building.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

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.

Policies 2 and 3 of 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.

The conversion of the public house to a residential dwelling is considered to be less intensive and have less of an impact upon the occupiers of nearby residential properties in terms of noise, general disturbance, lack of privacy, etc.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

A new access would be formed on the south western side of the building, including removal of a low garden wall. Concerns have been raised by local residents on highway safety grounds, especially in relation to the new access, which is close to a corner and the junction with Lowgate. However,

satisfactory off street parking and turning facilities are provided for the dwelling. Moreover, the proposal would generate less traffic to and from the site.

LCC Highways have been consulted and consider that the proposal would not result in an unacceptable impact on highway safety stating the following. "The width of the proposed access has been detailed on the proposed site plan of 4.4m which is adequate and the visibility has been demonstrated. The visibility to the south west is in accordance with Manual for Streets but to the north east it is somewhat short of 43m and can only achieve 35m. I am satisfied that the frontage is wide enough to allow vehicles to edge out with care giving drivers adequate visibility to enter the highway with caution and when it is clear to do so. The dropped kerbs to the proposed access exist but the actual crossover will need constructing to Lincolnshire County Council Specification. The proposal will not result in an adverse impact on the public highway."

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).

Flooding Considerations

Section 14 of the National Planning policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

In this case, the site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the proposal is classed as "more vulnerable". However, the proposal involves the re-use of an existing building, plus the South Holland Strategic Flood Risk Assessment (2017) indicates that the site is within an area identified as no hazard. No objections are therefore raised on flood risk grounds.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan and the intentions of the National Planning policy Framework in this regard.

Biodiversity

Section 15 of the National Planning Policy Framework (NPPF) seeks to protect sites of biodiversity value, minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and promote biodiversity net gain by protecting the biodiversity value of land, maximising opportunities to enhance and connect natural habitats, incorporate biodiversity conservation features to enhance green infrastructure and ecological corridors, and conserve or enhance habitat to adapt to climate change.

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain

For applications that are submitted prior to the introduction of this requirement, a standard biodiversity condition is appropriate and the mandatory 10% requirement would not apply. However, this applciation was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity net Gain (10%), a condition would be required, as mandatorily set.

In this instance, a Biodiversity Net Gain Exemption Statement was submitted with the application. It is considered that the application is subject to the de minimis exemption, due to the proposal not impacting a priority habitat and the development impacts less the 25 square metres of onsite habitat.

The Senior Ecologist was consulted on this application and has confirmed that "I would agree that this application meets the de minimis exemption, and not subject to BNG, as there is no habitat loss, and thus any potential garden landscaping will enhance the biodiversity on the site."

In light of this, the development is this instance is exempt from the statutory 10% Biodiversity net Gain requirements. However, it would remain appropriate, given the context of Section 15 of the NPPF and requirements of Policy 28 of the South East Lincolnshire Local Plan, that a standard condition is attached, requiring a level of Biodiversity Net Gain.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 1, 2, 3, 4, 32 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). The are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.