

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H08-0286-20 **Applicant:** Mr A Drakard

Proposal: Residential Development - approved under H08-0670-16. Modification of Condition 6 to remove footpath condition

Location: Rear Of 1 Clough Road Gosberton Risegate Spalding

Terminal Date: 15th June 2020

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 5 - Delivering a sufficient supply of homes
 Section 9 - Promoting sustainable transport
 Section 12 - Achieving well-designed places
 Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Outline planning permission was granted in March 2016 for 6 dwellings under application ref. H08-0033-16. This was modified under application ref. H08-0670-16 to remove the requirement for affordable housing.

Condition 6 of H08-0670-16 requires the provision of a 1.5 metre wide footway to link the permitted dwellings to the existing footway network at Clough Road prior to occupation of any of the dwellings.

The applicant is seeking the removal of this condition altogether due to an insufficient amount of land being available within their control upon which to construct the footway.

Site Description

A greenfield site fronting on to Beach Lane. The rear of residential properties which front on to Clough Road adjoin the northern boundary. There are open boundaries on the other 3 sides. There is a combination of hedging and fencing along the northern boundary as well as tall mature trees. There is a mixture of bungalows and two-storey dwellings that front on to Clough Road to the north.

History

H08-0932-19 - Details of landscaping and boundary treatment and contamination (Conditions 5 and 10 of H08-0670-16) (approved January 2020)

H08-0252-19 - Reserved matters application for residential development - erection of four dwellings approved under H08-0670-16 (approved April 2019)

H08-0670-16 - Residential development - 6 dwellings (re-submission of H08-0590-15) - Removal of Condition 6 of H08-0033-16 relating to affordable housing provision (approved September 2016)

H08-0033-16 - Outline application for residential development - 6 dwellings (re-submission of H08-0590-15) (approved March 2016)

H08-0590-15 - Outline application for residential development - maximum six dwellings (refused December 2015)

Consultation Responses

Cllr Walsh - No observations.

Gosberton Parish Council - No comments.

LCC Highways/SUDS - Does not wish to restrict the grant of permission.

Planning Considerations

There is an extant planning permission (H08-0670-16 and H08-0252-19) for residential development of the site. The key matter for consideration is, therefore, whether the removal of the condition requiring the construction of the footway would be acceptable.

In order to construct the footway, a conifer hedge belonging to an adjacent landowner would need to be removed. Given that the land required for the construction of the footway is not in the applicant's nor Highway Authority's control, it is arguable that this is a condition that cannot be reasonably complied with. As such, in the absence of an objection from the Highways Authority, it is considered reasonable to remove the condition.

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 into account, the proposed removal of Condition 6 of H08-0670-16 is considered to be acceptable and the recommendation is therefore for a delegated approval.