

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 18 May 2022

(Author: Polly Harris-Gorf - Principal Planning Officer)

Purpose: To consider Planning Application H09-0909-21

Application Number: H09-0909-21

Date Received: 25 August 2021

Application Type: FULL

Description: Erection of one detached dwelling & pair of semi-detached dwellings with associated works

Location: Land to Rear of The Chequers Hotel 15 High Street Holbeach

Applicant: API Ltd

Agent: Clayton Architecture Ltd

Ward: Holbeach Town

Ward Councillors: Cllr F Biggadike
Cllr T Carter
Cllr G T D Rudkin

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H09-0909-21>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 As a result of the level of objection and the matters this proposal raises.

2.0 PROPOSAL

2.1 Erection of one detached dwelling & pair of semi-detached dwellings with associated works.

2.2 The site accessed via Thomas de Moulton Way, which is a private roadway serving a number of properties, including The Chequers Hotel. Access to the site for emergency services will remain as existing. Emergency access to the cottages on site would be via the Thomas de Moulton private access to Park Road to the north of the site.

2.3 Specifically 2-bedroom 4-person, two storey dwellings in two different styles - two in a mews or cottage form and one as a traditional cottage. Each dwelling is proposed to have a courtyard garden/open space and parking.

2.4 The materials proposed for the dwellings would be red brick to match The Chequers. Spanish slate would be used for the roofs in addition to conservation rooflights and cast-iron effect rainwater goods for the downpipes and gutters. The windows would utilise slide and sash timber effect UPVC frames and the front doors will adopt a traditional appearance. The use of cast-iron effect materials and UPVC as materials is discussed further below.

2.5 Four parking spaces are proposed to be allocated to The Chequers as per the existing parking usage, with each dwelling allocated two parking spaces each. The rest of the parking spaces on the site would be for visitors.

- 2.6 Pedestrian and vehicular access can be gained to the site via the main High Street, passing beneath the first floor portion of the Chequers Hotel, however a further access to the site would be via Thomas de Moulton Way, which is a private road.
- 2.7 The application is supported by a Design and Access Statement incorporating Heritage Impact Assessment and an Archaeological Evaluation Report.
- 2.8 The application has been revised since submission to show access to the publicly adopted highway and to resolve the potential for over looking of other land outside the application site. The "red line" ownership certificate was revised and a Certificate submitted indicating that the applicant was not able to discover the land owners to the whole site, which includes the access via Thomas de Moulton Way.

3.0 SITE DESCRIPTION

- 3.1 The site is to the immediate North of the Primary Shopping Area and the Town Centre boundary of Holbeach, is within the Conservation Area and within the Holbeach Settlement Limit as defined in the South East Lincolnshire Local Plan, 2019. Holbeach designated to be a Main Service Centre within the SELLP.
- 3.2 Adjacent to the site lie the Chequers Hotel and a mix of retail and commercial buildings fronting both the High Street and Park Road. Along Thomas de Moulton Way, lie traditional buildings associated with the host buildings in the High Street and Park Road, as well as a mix of more recent residential dwellings.
- 3.3 The nearest listed buildings are the Grade II Listed Mansion House at 45 High Street, that also has curtilage buildings on to Thomas de Moulton Way, and the Grade I Listed All Saints Church, which is to the south of the entrance on to the High Street.
- 3.4 Thomas de Moulton Way is a privately owned access. The application site proposal would have a primary access on to the High Street and limited access via Thomas de Moulton Way.
- 3.5 The land is located within Flood Zone 1.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

4.2 South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policies:

- 1 Spatial Strategy
- 2 Development Management
- 3 Design of New Development
- 4 Approach to Flood Risk
- 10 Meeting Assessed Housing Requirements
- 11 Distribution of New Housing
- 17 Providing a Mix of Housing
- 28 The Natural Environment
- 29 The Historic Environment
- 30 Pollution
- 36 Vehicle and Cycle Parking
- Appendix 6 Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2021

Sections:

2. Achieving sustainable development
3. Plan-making
4. Decision-making
5. Delivering a sufficient supply of homes
6. Building a strong, competitive economy
7. Ensuring the vitality of town centres
8. Promoting healthy and safe communities
11. Making effective use of land
12. Achieving well-designed places
14. Meeting the challenge of climate change, flooding and coastal change
16. Conserving and enhancing the historic environment

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 APPLICATION SITE AND ADJACENT HOTEL

H09-0791-13. Chequers Hotel 15 High Street . Proposed development of 7 two-bedroom cottages with parking and amenity space. REFUSED. 19-11-13.

5.2 (ADJACENT) 17 HIGH STREET HOLBEACH

H09-0586-19 Renovation and conversion to create 5 flats. Approved 01-10-19.

5.3 (ADJACENT) 19 HIGH STREET HOLBEACH

H09-1079-20. Demolition of single-storey rear wing (retrospective), removal and rebuild of upper part of front elevation (retrospective), construction of two-storey rear wing and change of use of first and second floors to offices - approved under H09-0465-15. Modification of Condition 6 to allow upvc windows in lieu of wooden windows. APPROVED 22-06-21.

H09-0465-15 Demolition of single-storey rear wing (retrospective), removal and rebuild of upper part of front elevation (retrospective), construction of two-storey rear wing and change of use of first and second floors to offices. Approved on 04-09-15.

H09-1146-06 Demolish existing building and replace with three-storey building comprising food retail take-away and 2 flats. Refused on 12-10-06.

H09-0775-08 Change of use of take-away to coffee shop with flats above. Approved on 18-09-08.

5.4 OTHER

H09-0426-19. off Thomas de Moulton Way Holbeach. Proposed bungalow. Approved 27.7.19.

6.0 REPRESENTATIONS

6.1 Holbeach Parish Council

Objections - on the grounds of the inadequate access for emergency vehicles. Traffic concerns and area not suited to residential development.

Observations - Have received a number of complaints from local businesses about this application due to the area being originally earmarked as a town square for Holbeach. Public are also concerned about congestion waste and emergency service access.

Traffic concerns and area not suited to residential development.

6.2 Holbeach & District Civic Society

Objections - This area was proposed as being a public area and for general as a communal asset for the people of Holbeach and District. Against the proposed building of a pair of "Semis" and a house. Also a public right of way to Park Road and Carter's Park.

6.3 SHDC Ward Members

Cllr F Biggadike -

Concerns are that Title Plan shows general position not exact boundaries.

Houses sited adjacent to Commercial premises of Wrights Mews, a recipe for noise complaints from residents with houses on the boundary.

Concern for users of car park, Health and Safety Legislation on Private Car parks states that they should conform to the same standard as the local Highway Authority.

6.4 SHDC Conservation Officer

No objections to this proposal from a Heritage Conservation perspective.

The proposed design is modest in scale and makes use of several 'heritage' character elements such as parapet gables and locally-appropriate slate roofing. These elements, combined with the overall style will create properties that give the impression of modest, heritage-style backland type development. In addition to this, the site is screened from the public realm by virtue of its lack of a street frontage, meaning that the proposed development's impact upon the conservation area as appreciated by the general public, will be minimal. Whilst the proposed use of UPVC windows and composite doors is not the ideal solution within a conservation area setting, it is the case that the area is, as described above, shielded from public view, and UPVC is already relatively prominent in this backland portion of the area.

The Case Officer should continue to consider this application in accordance with Policy 29 of the South East Lincolnshire Local Plan and Section 16 of the National Planning Policy Framework, as well as all other relevant policies and guidance.

6.5 SHDC Strategic Growth and Development

The location of the proposed development is an area of Holbeach that South Holland District Council's Growth and Development team is currently exploring in terms of its development potential for town centre renewal and regeneration. The ambitions of the council's Growth and Development team in respect of the 'Chequers Yard' area, which incorporates this site, includes the following;

- To see cohesive development of the parcels of land within the Chequers Yard area in a way that offers maximum benefit to the economy of the town centre, including a multitude of complimentary town centre uses
- To develop greater foot connectivity through the site between Park Road and Holbeach High Street, as a means of easing pedestrian access from the main car parks in the town through the high street
- Wherever possible, to see the area developed in a way which may contribute to an increase the availability of good quality public realm in Holbeach, to support the use of the area as a social and economic hub within the town.

In that respect, the proposal within application H09-0909-21 raises the following concerns;

- The proximity of the proposed development to neighbouring parcels of land, including where boundary walls abut adjacent land and create the potential for overlooking issues by virtue of first floor development with windows, has the potential to significantly fetter the potential for comprehensive development of the whole. This is especially pertinent in relation to the proximity of the proposed dwellings to the northern edge of the Chequers Yard site, which is a site also currently being explored for its development potential within a town centre regeneration context. A concern of the team would be the extent to which the proposals within H09-0909-21 would have a detrimental impact on the development potential of the site to the northern edge of the Chequers Yard area, whilst also fettering other development opportunity with potential to make a positive contribution to the economy of the town centre.

- The current design of the scheme, with development spanning the entirety of the northern edge of the development site, eliminates the current and future scope for improved foot connectivity from Park Road to Holbeach High Street through the Chequers Yard area.
- The limited access arrangements to the site (via Thomas DeMoulton Way) also further fetters the scope for broader future development of the whole (or further parts) of the Chequers Yard area. This limited access already causes significant issues for local residents when used by large vehicles, (the private road / gravelled track is not suitable or wide enough), especially as it is used regularly by school children as a short cut through to Park Road and The University Academy Holbeach. The combination of large vehicles, narrow track and pedestrians are not a safe combination.

It should be noted that the Council's Growth and Development Team has engaged with the applicant to seek to address these concerns, including exploring the scope for a wider 'masterplan' of the area to be taken forward that would enable comprehensive and commercially viable development to take place that achieves the aims of all of the parties involved. However, as things stand, we have been unable reach agreement on amendments to their design that would support the ambitions for the area.

Consequently, the Growth and Development team is minded to object to the proposals contained within H09-0909-21, unless a redesign of the scheme can be taken forward that addresses the concerns listed above and prevents lost opportunity.

6.6 SHDC Environmental Protection

No comments or objections.

6.7 SHDC Environmental Services

No response received.

6.8 LCC Highways & SUDS Support

Does not wish to restrict the grant of permission.

The proposal is for the erection of one detached dwelling and a pair of semi detached dwellings with associated works and it does not have an impact on the Public Highway or Surface Water Flood Risk. The existing access arrangements remain unchanged and are sufficient for this proposal as is the allocated parking spaces to The Chequers as per the existing parking usage and for the proposed dwellings. It should be noted that this is an existing private road and the Highway Authority have no jurisdiction over the use of this road. Therefore, it is for the Local Planning Authority to determine whether the existing access provided by the private road is safe and suitable for all users.

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

No objection to the amended details as shown on Drawing Number: 376-01-C, 376-02-B, 376-04-A and The Chequers Title Plan.

6.9 LCC Historic Environment Officer

The trial trench evaluation report provided has identified any medieval remains or evidence for the medieval hospital known to have stood in this part of Holbeach. However, the fieldwork has demonstrated that the site contains remains of a 19th century walled garden, as well as earlier and previously unknown (at least 18th century) buildings and structures made from local hand made bricks that predate the earliest 19th century maps of Holbeach. These remains are of local significance and will be impacted by excavations for the proposed development's foundations, services and landscaping.

It is therefore recommended that a proportionate response would be to require the developer to commission a scheme of archaeological works (on the lines of 4.8.1 in the Lincolnshire Archaeological Handbook) for monitoring and recording during all groundworks, with the ability

to stop and record archaeological features. This should be secured by South Holland District Council's standard conditions. This is in accordance with paragraph 205 of the NPPF:

"They (The Local Planning Authority) should... require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part), in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted."

This scheme of works would be for archaeological monitoring and recording during all groundworks.

6.10 South Holland Internal Drainage Board

In order to avoid conflict between the planning process and the Board's regulatory regime and consenting process please be aware of the following:

- I note that the applicant intends to discharge surface water to a sewer. I recommend that you satisfy yourselves that this proposal is in line with the drainage hierarchy (as per best practice) and is viable in this location.

- I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary. However, this should be confirmed by the applicant. If the proposals do involve the alteration of a watercourse, consent would be required under the Land Drainage Act 1991 (and Byelaw 4).

Whilst the consenting process as set out under the Land Drainage Act 1991 and the aforementioned Byelaws are separate from planning, the ability to implement a planning permission may be dependent on the granting of these consents. As such I strongly recommend that the required consent is sought prior to determination of the planning application.

6.11 Lincolnshire Fire & Rescue

The Fire Authority objects to this planning application on the grounds of inadequate access for a fire appliance from the High Street. This is the opinion of the Fire Authority to ensure the long-term fire safety of the occupants and to remove this objection the following measures are required:-

Access to buildings for fire appliances and fire fighters are specified in the Building Regulations 2010 Part B5. The vehicle access road will be a minimum width between kerbs for pumps of 3.7m. The minimum turning circle between kerbs for pumps should be 16.8m and between walls 19.2m. A turning facility is required because the dead-end access route is more than 20m long. This can be a hammerhead or turning circle.

Lincolnshire Fire and Rescue requires that the access road surface construction is of minimum carrying capacity for pumping appliances of 18 tonnes and not 12.5 tonnes as detailed in the Building Regulations 2010 part B5. The gravel access road surface construction will not meet with these requirements.

If it is not possible to provide access to the proposed development in accordance with the guidance details within Part B5 of Approved Document B, as compensation, Lincolnshire Fire and Rescue may accept the provision, at the developer's expense, of an automatic sprinkler system, designed, fitted and maintained in accordance with the relevant sections of BS5306/BSEN12845:2004.

Should this option be considered, our Fire Safety advisers must be provided with detailed plans of the proposed sprinkler system. The chosen scheme should not be of a lesser standard than any provision as may be required by the Building Regulations.

6.12 No response was received to the revised drawings sent to resolve the matters listed above.

6.13 Public

Representations have been received, summarised below:

Three Objections to original submission

Vehicular access onto Park Road and/or High Street not adequate
Thomas de Moulton Way is privately owned
No right of way, only right of access for emergency vehicles on Thomas de Moulton Way
Thomas de Moulton Way is used as a rat run and unauthorised parking, loading and unloading
How will they get materials on site

Two comments regarding the original submission

Provisions for Swifts
Access for the dwellings should be from the High Street only
Thomas de Moulton Way has no passing space, is privately owned for access only to residents on to Thomas de Moulton Way
Thomas de Moulton Way should be for pedestrians only and emergency services and be gated off
Applicant has failed to make good Thomas de Moulton Way
Land being used for the dumping of rubbish; having an increase of rats
This is a town centre development and as it is in a conservation area it should be treated as such

17 Objections to amended submissions

Object to the principle of the development of this site
This development will put a hold on redevelopment of Holbeach Redevelopment Scheme
Positioning of parking spaces
No access or outlook of property and this also blocks a legal right of way
Existing mess and disorder of the site
Error in the land ownership denoting Thomas De Moulton Way
Destruction of gravel surface of Thomas de Moulton Way; road not constructed to be suitable for big vehicles
Thomas de Moulton Way is a footpath of restricted width
Damage to Thomas de Moulton Way has not been repaired by the applicant as a result of previous development
Consideration should be given to the damage that is being done to Thomas de Moulton Way, there are drainage, electric and water pipes under that track
Development would compromise rights of way
Applicant has no right of way for new development, and limited access for Chequers Hotel
Area being used as a car park
Residents not told of trenching works
Current lack of emergency vehicle access to the rear of the Tea Room, dry cleaners and Boots
Currently used by vehicles and school children as access route
Would compromise implementation of H09-0586-19 (set out above)
Site being used as a dumping ground
Have no problem with the detached and semi detached houses. It's the parking and access that is a problem
Other unauthorised access on to and use of Thomas de Moulton Way
Thomas De Moulton Way is a one way system
Object unless Thomas De Moulton Way is tarmacked and adopted
Access on to Park Road not safe or adequate
Rubbish is attracting rats
Impact of development on the conservation area
Previous gate across the access was removed

One comment regarding the amended submissions

Generally in support of the proposal of the 3 properties.
Conditions that must be met - the permanent separation of the vehicle access to the chequers HMO property from the proposed 3 dwellings and sensible provisions for waste.
The history of access along Thomas de Moulton Way has suffered from abuse
If granted needs to give access only to the 3 properties with none of the parking serving the flats of the chequers and the bar.
The Chequers has always benefited from emergency and essential access along Thomas de Moulton Way but commercial heavy access was always achieved via the High Street.
Development will result in social friction and potential unrest and potential legal challenges with some residents on this lane
Ownership of Thomas de Moulton Way

The only way to control an unacceptable amount of traffic accessing this drive and potentially creating unrest and potential injuries to the public is to construct a "permanent" separation of the new site from the HMO/BAR.

Dumping commercial waste from rental properties on the car park

Two representations in support of the amended submissions

Development should be developed to high standards that were expected of development at of the development obviously would be expecting the same high standards applied to 1, 3, 5 and 7 Thomas de Moulton Way and that of the Mansion House.

Concerned that the poor standards set by the conversion at 15 A,B and C with the erecting of a ghetto style steel gantry with poor skills in relation to brickwork and placement of doors and windows concerned about the current poor ground management of the overall site at the Chequers, ie dumping of unwanted household items in the furthest away point from the existing building which are an eyesore and a nuisance to the properties that overlook the current car park Thomas de Moulton Way previously well managed with a gate with a lock that the emergency services had access to. This gate was removed. Should be gated best if measures are put in place to ensure that access on foot for the general public is restricted to those who are entitled to have access Existing anti social behaviour to be addressed.

Support as long as the Right of Way for 35-37 15a 15b and 15c High Street Holbeach are respected and agreed between Cemetery Road and Town Pump as per the deeds.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 The main issues are:

Principle

Character and appearance, including the effect of the development upon Holbeach Conservation Area and nearby listed buildings

The likely effect upon the amenity of nearby residents and adjoining land

Refuse collection

Highway safety

Archaeology

Other material considerations, including flood risk

7.3 Principle

7.4 The site is within Holbeach Settlement Limit as defined in the SELLP, 2019. Policy 2 indicates that within the settlement boundaries of the Main Service Centres, including Holbeach, 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.

7.5 Objections have been raised, as precised above, regarding the potential for the development proposal to prejudice wider intentions to consider this site in conjunction with other land, and to prepare a wider 'masterplan' of the area. In looking at the determination of this application the committee is to be mindful of the advice set out within the NPPF 2021, specifically within paragraph 11, as follows:

"Plans and decisions should apply a presumption in favour of sustainable development...

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole."

7.6 The NPPF goes on to set out at paras 12 and 13:

"The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies."

7.7 It is considered that although the wider intention to prepare a "master plan" for this wider area has been set out, this has not translated in to the SELLP, nor is it an adopted strategic or non-strategic policy stance, such as an adopted Neighbourhood Plan, Local Development Order or an approved and adopted supplementary planning document for the purposes of planning decision making. At this time therefore this application is to be determined on its merits and in accordance with the SELLP and the provisions of the NPPF 2021.

7.8 The concept of prematurity of decision making would not apply in this case, as the proposal would not prejudice the adopted SELLP. The NPPF states at para 50 that:

7.9 "Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or - in the case of a neighbourhood plan - before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process."

7.10 The NPPF does however address the issue of "brownfield land" in the context of the promotion of "an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions." at para 119, and para 120 sets out criteria for consideration.

7.11 Para 121 sets out that: "Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes. "

7.12 Para 206 clarifies that "Local planning authorities should look for opportunities for new development within Conservation Areas ...and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably."

7.13 Character and appearance, including the effect of the development upon Holbeach Conservation Area and nearby listed buildings

7.14 The site is located within the Holbeach Conservation Area, and is presently utilised for informal parking. The loss of this area would not in principle, have a detrimental impact upon the character and appearance of this part of the conservation area, nor on nearby listed buildings.

7.15 The proposed design is modest in scale and makes use of several 'heritage' character elements such as parapet gables and locally-appropriate slate roofing. These elements, combined with

the overall style will create properties that give the impression of modest, heritage-style back-land type development. In addition to this, the site is screened from the public realm by virtue of its lack of a street frontage, meaning that the proposed development's impact upon the conservation area as appreciated by the general public, will be minimal. Whilst the proposed use of UPVC windows and composite doors is not the ideal solution within a conservation area setting, it is the case that the area is, as described above, shielded from public view, and UPVC is already relatively prominent in this backland portion of the area.

- 7.16 The Case Officer should continue to consider this application in accordance with Policy 29 of the South East Lincolnshire Local Plan and Section 16 of the National Planning Policy Framework, as well as all other relevant policies and guidance.
- 7.17 The development has been designed in the style and form of other buildings in the vicinity that have a boundary with Thomas de Moulton Way. The form and bulk of the development would be domestic in scale and would not overwhelm the principal buildings on and around the site, and would be read as a back-land form, in much the same way as the existing residential units adjacent.
- 7.18 The proposed design is modest in scale and makes use of several 'heritage' character elements such as parapet gables and locally-appropriate slate roofing. These elements, combined with the overall style would create properties that give the impression of modest, heritage-style back-land type development. In addition to this, the site is screened from the public realm by virtue of its lack of a street frontage, meaning that the proposed development's impact upon the conservation area as appreciated by the general public, will be minimal.
- 7.19 The SHDC Conservation Officer considers that whilst the proposed use of UPVC windows and composite doors is not the ideal solution within a conservation area setting, it is the case that the area is, as described above, shielded from public view, and UPVC is already relatively prominent in this backland portion of the area. The use of UPVC as materials for the windows would not normally be acceptable within the conservation area, however UPVC has been approved on adjoining developments (H09-1079-20 refers); this change was to a clearly secondary element of the development.
- 7.20 It is considered that some materials being proposed, specifically cast-iron effect materials could stand out as such if not properly detailed and a condition is recommended to seek the submission of details.
- 7.21 The likely effect upon the amenity of nearby residents and adjoining land
- 7.22 The development has been amended to preclude overlooking to adjoining dwellings, and to adjoining land.
- 7.23 Objection has been raised regarding the relationship of this proposal to a consent granted on 1 October 2019 that has not commenced (H09-0586-19 refers) so expires on 1 October 2022. Both applications would be required to be constructed in accordance with the approved details and within the land within the ownership of the developer unless other arrangements were made. It is not considered that these proposals are mutually exclusive. H09-0586-19 shows a ground floor door accessing on to the current application site, however in the 2019 application the scheme did not show access rights over this land, and it was not included within the red line of that application. This issue would be a civil matter for the land owners to resolve. Dependent on land ownership matters this may result in the reconfiguration of the parking for this proposal, or internal changes to the 2019 consent. This matter has been raised with the applicant.
- 7.24 The use of Thomas de Moulton Way would not result in such a number of vehicle movements that would impact detrimentally upon existing residents and occupiers with access to and from Thomas de Moulton Way. Matters regarding damage to the access, and as a result of the access being used, are civil matters as the access is privately owned.
- 7.25 Refuse collection
- 7.26 The details of refuse collection for the residential units has not been fully addressed. It is

considered that the refuse storage and collection detailing and management for the residential units should be subject to condition discharge. Given the form of development it is expected that private collection arrangements would be required. This is in order to accord with the SHDC Waste Services "Private Drives - Waste Vehicle Collection Service - Guidance Note", which is not a planning policy but is a material consideration to be given significant weight, given its impact upon development layouts.

7.27 Highway safety

7.28 The response of the LCC Highway officer is set out above, and states that the does not have an impact on the Public Highway or Surface Water Flood Risk. The existing access arrangements (on to Park Road) remain unchanged and are sufficient for this proposal as is the allocated parking spaces to The Chequers as per the existing parking usage and for the proposed dwellings.

7.29 Thomas de Moulton Way is an existing private road and the Highway Authority have no jurisdiction over the use of this access. Therefore, it is for the Local Planning Authority to determine whether the existing access provided by the private road is safe and suitable for all users. Given the limited nature of the access via Thomas de Moulton Way, and the fall back position that there is already access to pass over the access, it is not considered that the use of Thomas de Moulton Way, or the access point on to the public highway on to Park Road would result in such harm to highway or to pedestrian safety that consent could be withheld.

7.30 Archaeology

7.31 The LCC Archaeology Service recommend conditions, that are set out below.

7.32 Flood Risk

7.33 The site is with Flood Zone 1 as defined within the Environment Agency Flood Maps and within an area of no hazard within the South East Lincolnshire Strategic Flood Risk Assessment. The proposal therefore passes the sequential test in terms of flood risk.

7.34 Other material considerations

7.35 Fire and Rescue concerns

7.36 The concerns of the Lincolnshire Fire & Rescue Service were provided to the applicant and the application was amended. As no response has been received subsequently from the Service, it is considered that this matter be considered in further detail and a condition is recommended to seek details.

7.37 Rights of access and civil matters.

7.38 Objections have been raised regarding the use of Thomas de Moulton Way, which is a private access. Matters regarding rights of access and ownership rights are civil matters that are to be given little weight in the consideration of this planning application; rights of access and other rights regarding land are able to be altered via civil law with no recourse to the Planning Acts or Regulations. The application was revised and re-advertised in the light of the ownership certificate submitted. It is considered that the LPA have acted in accordance with the regulations in this regard.

7.39 With regard to the dumping of waste on the land, as the land is owned by the applicant, it is a civil matter and not a matter that SHDC are to address. The NPPF is however clear that leaving land to become run down is not a reason to grant planning permission.

7.40 Planning Balance

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.

- 7.41 The proposed development represents an enhancement to the character or appearance of the conservation area and to the setting of nearby listed buildings. The amenity of nearby residents has been considered and the development would not harm the residential amenity of nearby residents. The matter of parking has been considered and weighed against the location of the building and recent planning decisions.
- 7.42 Taking into consideration these factors, the proposal is considered to comply with Policies 1, 2, 3, 4, 10, 11, 17, 28, 29, 30, 32 and 36 and Appendix 6 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF), 2021.
- 7.43 Conclusion
- 7.44 On balance there are no significant factors in this case that indicate against the proposal and outweigh factors in favour of the proposal and the policies referred to above.
- 7.45 **Additional Considerations**
- 7.46 Public Sector Equality Duty
- 7.47 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.
- 7.48 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.49 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.
- 7.50 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.51 Human Rights
- 7.52 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).
- 7.53 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.

8.0 RECOMMENDATIONS

8.1 **Grant Permission subject to those conditions listed at Section 9.0 of this report.**

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Application form
Archaeological Evaluation Report . February 2022. AAL 2022012
Fire Suppression iMist Domestic Project Information Document
Q21-10361 0 Watermist Layout - Bungalow
Q21-10361 Rev 0 Watermist Layout - Mews
376-01-C
376-02-B
376-03 A

Reason: For the avoidance of doubt and in the interests of proper planning.

3. No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following and should be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
 2. A methodology and timetable of site investigation and recording
 3. Provision for site analysis
 4. Provision for publication and dissemination of analysis and records
 5. Provision for archive deposition
 6. Nomination of a competent person/organisation to undertake the work
 7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.
- The archaeological site work shall only be undertaken in accordance with the approved written scheme.

Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2021. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

4. The applicant shall notify the Lincolnshire County Council Historic Environment Department in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 3 above in order to facilitate adequate monitoring arrangements.

Reason: To ensure satisfactory archaeological investigation and retrieval of archaeological finds in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2021.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

5. A copy of the final report required in connection with Condition 3 above shall be submitted within three months of the work being carried out to the Local Planning Authority and the Lincolnshire Historic Environment Record. The material and paper archive required as part of the written scheme of investigation shall be deposited with an appropriate archive in accordance with guidelines published in The Lincolnshire Archaeological Handbook.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2021.

This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

6. Details of the design of all cast-iron effect rainwater goods, windows, external doors and door frames to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority before any further development is commenced. Such details shall indicate, at a scale of not less than 1:10, the longitudinal and cross-sectional detailing (including reveals), threshold and lintol detailing, and means of opening of the windows and doors. The rainwater goods, doors and door frames shall be installed in accordance with the approved details and thereafter so maintained.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan (2019), as well as Section 16 of the National Planning Policy Framework (2021)

7. Notwithstanding the submitted details, prior to occupation of each of the dwellings hereby permitted, full details of the measures following shall be submitted to and approved by the Local Planning Authority. The development shall be constructed in accordance with the details so approved.

- access arrangements for fire appliances or other measures to be installed;
- an automatic sprinkler system, designed, fitted and maintained in accordance with the relevant sections of BS5306/BSEN12845:2004. The chosen scheme should not be of a lesser standard than any provision as may be required by the Building Regulations.

Reason: In order to ensure the long-term fire safety of the occupants.

This condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

8. Before the commencement of the development hereby permitted beyond oversite a schedule of external materials of construction of buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the materials so approved.

Reason: To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021.

9. Details of the design and positions of all external boxes for gas and electricity supplies and of any gas flues and soil vent pipes shall be submitted to and approved in writing by the Local Planning Authority prior to their installation and there shall be no variation from the details so approved.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.

This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the following developments or alterations shall be carried out.
- i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas or raised decks;
 - ii) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas;
 - iii) alterations including the installation of replacement or additional windows or doors and the installation of roof windows.
- Reason: To ensure that the Local Planning Authority retains control over the future extension and alteration of the development, in the interests of its architectural and visual integrity, levels of residential amenity and the visual amenity and character of this part of the Conservation Area within which it is set.
- This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021.
11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), no walls, fences or other means of enclosure other than those illustrated on the plans forming part of the application hereby approved shall be erected on the site.
- Reason: To ensure that the Local Planning Authority retains control over means of enclosure, in the interests of the appearance of the development and the visual amenity and character of this part of the Conservation Area within which it is set.
- This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021.
12. The water consumption of the dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out as the optional requirement in Part G of the Building Regulations 2010 and the South East Lincolnshire Local Plan, 2019). The person carrying out the work must inform the Building Control Body that this duty applies. A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.
- Reason: To protect the quality and quantity of water resources available to the district.
- This Condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan, 2019.
13. Four swift nest bricks shall be incorporated within the external walls of each of the dwellings hereby approved and shall be retained thereafter.
- Reason: In the interests of biodiversity.
- This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.
14. Prior to the occupation of any dwelling, full details of the arrangement for private refuse/recycling collection shall be submitted to and approved in writing by the Local Planning Authority. The approved management arrangements shall be implemented upon first occupation of any dwelling and thereafter retained for the lifetime of the development.
- Reason: This application has been approved on the basis that waste collection will be carried out by a private company and to ensure appropriate arrangements are in place for the collection of refuse/recycling.
- This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

15. A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by the Local Planning Authority before the development commences and the construction process shall be carried out in accordance with the scheme so approved. It shall also include a method statement, detailing how construction traffic, site personnel vehicles, materials deliveries and site accommodation will be managed to safeguard highway safety, free passage along Thomas de Moulton Way, Park Road and the High Street, and residential amenity.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

17. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

