

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0485-24 **Applicant:** Mr L Shepperson

Proposal: Residential Development - approved under H11-0174-23. Modification of Condition 2 to allow amendments to approved plans and Conditions 4 and 5 relating to Flood Risk Assessment and Landscaping

Location: Adj. 17 Trafalgar Square Long Sutton Spalding

Terminal Date: 6th September 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural 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 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed & beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	1	0	0	0

HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

This is a section 73 planning application to make changes to the dwelling already approved on site under H11-0174-23. The proposal title is as follows:

"Modification of Condition 2 to allow amendments to approved plans and Conditions 4 and 5 relating to Flood Risk Assessment and Landscaping"

The applicant in effect provides a 'plot substitution' proposing a different house type to what has been previously approved on site. The plans also include landscaping and amended plans have been received also showing that the finished floor levels of the dwelling will be set at 1m above existing external ground levels.

Site Description

The site is located off Trafalgar Square and is sited within the Long Sutton settlement boundary. It comprises a parcel of land located between no's 17 and 18 Trafalgar Square. The site is flat and mainly laid to lawn. There is a hedge forming the front and rear boundaries and high level trees/hedge forming the northern boundary. Planning permission exists for a dwelling on this site.

The surrounding area is characterised by dwellings of varying ages and designs. The site is located within Long Sutton Settlement boundary and Environment Agency Flood Zone 3. The EA have stated that the site has a future classification of 'Danger for Most'.

History

H11-0174-23 - Residential Development. Approved 11-05-23

Consultation Responses

IDB - Thank you for consulting us on application H11-0485-24. The Board has no comments to make on this application

Environment Agency

1st response

We did not recommend the conditions referred to on application H11-0174-23 and therefore have no comment to make on this application. In addition, this site comes under cell D8 of the local flood risk standing advice and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'.

2nd Response

The EA object to the proposed mitigation measures in place of finished floor levels being set at 1m above existing ground levels.

3rd Response

No objections given the submission of amended plans.

Highways & Suds Support - The proposal is for minor amendments to Residential Development - approved under H11- 0174-23. Modification of Condition 2 to allow amendments to approved plans and Conditions 4 and 5 relating to Flood Risk Assessment and Landscaping that already has approval. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Environmental Protection - No comments

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.

Planning Considerations

An extant permission for a single dwelling currently exists on site. It is therefore considered that there is no requirement to revisit matters of planning principle. This proposal relates to a different house type along with the inclusion of landscaping and flooding mitigation.

The main issues and considerations in this case are (but are not limited to):

- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Biodiversity

Layout, Design and Impact on the Character of the Area

Policy 2 of the SELLP states 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. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states 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"

The proposal is for a detached dwelling that has living accommodation across two floors; however, the first floor is contained within the roof (above the eaves). The dwelling presents a gable to both the principal and rear elevations and is of dual pitched construction, although a feature gable is located to the front over the lounge. The proposal is not too dissimilar to the extant permission that exists on site, which is also for a dwelling (of similar appearance) with living above the eaves. Differences relate to the removal of the approved sun lounge room and an increase in the overall

main footprint of the dwelling, including its width to allow for an integrated garage. The proposed detached garage is also removed from the plan. The proposed plans also show soft and hard landscaping.

In terms of materials the proposal includes a red/orange multi-brick and terracotta pantile roof (the proposed plans expand on windows and rainwater goods). This palette of material are considered acceptable.

The proposal therefore given the existing approval on site, the commensurate scale and massing along with the acceptable palate of materials would result in a dwelling that is both in-keeping with the surrounding area and with previous approvals on the application site.

The proposal is therefore considered to accord with SELLP Policies 2 and 3 and in terms of character impacts is considered acceptable.

Impact on Neighbouring Residents/Land Users/Land Uses

Policy 2 and 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.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

An extant permission exists on this site for a dwelling in a similar location and this section therefore assesses the difference upon residential amenity between that permission and this proposal. The application site is infill between numbers 17 and 18 Trafalgar Square. The application site is located south of the neighbouring property at number 18, therefore this property is subject to a greater overshadowing impact than its relationship with number 17. That said whilst the footprint of the dwelling has increased, and that because of the necessity to meet with EA requirements regarding finished floor levels the dwelling sits higher, the impact from overshadowing and overbearing are still considered acceptable.

The siting of the dwelling would mean that much of the impact is to the side/front of the neighbouring property, this property also has a garage in situ which protects the more private amenity area to its rear, this coupled with the separation distance from side openings are considered to represent an acceptable relationship (especially given the extant permission). The dwelling to the south (No 17) is considered to have an acceptable relationship with the proposal.

In terms of overlooking given the need to increase the finished floor levels 1m above existing the side openings need careful consideration. The upper floors are served by roof lights and impacts from these are considered acceptable. However, a door that serves the utility room to the north side elevation along with a window serving the study are likely to result in the ability to 'look across' the side of the neighbouring dwelling (number 18) this is because the proposed 2m boundary fence is halved in its effect upon reducing overlooking. Therefore, a condition will be attached that these opening are to be obscured will be attached. Furthermore, should a ramped access be proposed or a platform outside the utility door, it shall first be agreed in writing with the LPA, such a structure would also be required to provide a privacy screen to prevent any unacceptable overlooking.

To the opposite side an opening service the hallway and one serving the snug will also be required to be obscured. The snug has other openings serving the room and the hallway does not represent primary living accommodation.

On the above basis, with mitigation for side opening its is considered that the proposal would accord with SELLP Policies 2 and 3.

Highway Safety and Parking

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.

Appendix 6 of the SELLP sets out minimum vehicle parking standards for residential developments

and requires that at least 2 parking spaces are provided within the curtilage for dwellings with up to 3 bedrooms.

The proposal would utilise the already approved access arrangement and would allow for the parking of a number of vehicles off-street. Highways have been consulted and have no objections to the proposal, the development would require the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act and so are mitigated through legislation outside of planning.

It is therefore considered that the proposal would accord with SELLP policies 2 and 3 as regards highways safety.

Flooding Risk Considerations

Policy 4 sets out South Hollands approach to Flood Risk. The application site is located within FZ 3 in accordance with EA Planning Maps. The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) shows that the site falls within a future "Danger for Most" hazard zone.

Section 14 of the National Planning Policy Framework also in part concerns itself with flood risk and is relevant.

This is a section 73 application and therefore principle flood risk considerations are not required as part of this assessment (given a dwelling is already approved on site), and so, no commentary of exception or sequential test is not required.

The applicant has provided alternative resilience measures in an attempt to remove the requirement for finished floor levels to be sited 1m higher than external ground levels (this is secured via condition on the extant permission). Given that the requirement in relation to floor levels relates to EA standing advice, the EA have been consulted. The EA's initial response was that condition were not imposed by them under the previous approval and to refer to standing advice. The second set of comments does make an assessment of the proposed mitigation measures and does not consider them to be sufficient to remove the flood risk.

Subsequently amended plans have been received from the applicant showing that the dwelling will be sited at 1m above existing ground levels, this replaces the resilience measure put forward. This will be reinforced through planning conditions. The EA have confirmed that this would remove their objection.

Conditions in relation to surface water and foul waste were not necessary as part of the original approval and are not necessary again.

On this basis the proposal is considered to accord with SELLP Policy 4.

Biodiversity

This application is a section 73 of previous approval H11-0174-23. That application was not subject to mandatory BNG. Therefore given that this represents a flexible approach to that permission this application is also exempt from mandatory BNG. The previous permission included a condition that swift nest bricks are incorporated into the new dwelling, these will be applied again.

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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with policies 2, 3, 4, 28 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 (NPPF) (December 2023). There 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.

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.