DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H13-0526-26**	**Applicant:**	**R Strong**
Proposal:	Conversion of pair of semi-detached dwellings into one dwelling		
Location:	15-17 Oakwood Park Moulton Seas End Spalding		
Terminal Date:	4th August 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019
National Guidance **National Planning Policy Framework December 2024**

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The application seeks consent for a lawful development certificate for the conversion of a pair of semi-detached dwellings into one dwelling.

Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The site comprises 15 and 17 Oakwood Park, Moulton Seas End, which includes a pair of semi-detached dwellings. The dwellings each feature two storeys, front driveways and rear gardens. The site is surrounded by residential development.

Relevant Planning History

H13-1229-91: (Outline Application) Residential development (registered as H13/1009/90) - approved 20 July 1995

H13-0212-98: (Renewal) Residential development (renewal of application H13/1229/91) - approved 17 December 1999

H13-0950-02: (Reserved Matters) Residential development (34 dwellings) - Outline H13/0212/98 - approved 24 January 2003

H13-0137-03: (Discharge of Conditions) Details of landscaping, fencing, materials, lighting to private

drives (Conditions 2, 4, 5 & 13 of H13/0950/02) - approved 14 March 2003

H13-0176-03: (Discharge of Conditions) Details of junction of estate road (Condition 11 of H13/0950/02) - approved 20 March 2003

H13-0195-03: (Discharge of Conditions) Details of play equipment, layout & fencing (Condition 14 of H13/0950/02) - approved 20 March 2003

H13-0183-03: (Discharge of Conditions) Details of landscaping (Condition 1 of H13/0950/02) - approved 20 May 2003

H13-0173-03: (Discharge of Conditions) Details of sewer and road layout (Condition 7 of H13/0950/02) - approved 08 August 2003

H13-0174-03: (Discharge of Conditions) Footway and lighting system (Condition 9 of H13/0950/02) - approved 08 August 2003

H13-0175-03: (Discharge of Conditions) Footway details on south side of Mill Marsh Road (Condition 8 of H13/0950/02) - approved 08 August 2003

H13-0177-03: (Discharge of Conditions) Details of estate road and associated footways (Condition 12 of H13/0950/02) - approved 08 August 2003

H13-0180-03: (Discharge of Conditions) Details of the carriageway (Condition 6 of H13/0950/02) - approved 08 August 2003

H13-0322-04: (Discharge of Conditions) Details of upgrading of play equipment required by Section 106 Agreement issued in connection with H13/0950/02 - approved 29 April 2004

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Consultation

There is no statutory obligation for the local planning authority (LPA) to publicise an application for a certificate of lawful development. Therefore, no consultation has been undertaken with statutory consultees.

For lawful development certificates, planning policy guidance is clear that there is no statutory requirement to consult third parties including parish councils or neighbours (Paragraph: 008 Reference ID: 17c-008-20140306). Notwithstanding this, a site notice has been displayed in this case in the interests of transparency. In this instance, no representations have been received from members of the public.

Key Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall

(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d)specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the LPA needs to be provided with sufficient information to demonstrate that, the proposed building is lawful in planning terms and would not require full planning permission.

Assessment

Section 55 of the Town and Country Planning Act 1990 (TCPA) defines development as the "carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land" (1).

Section 55(3) of the TCPA specifically states that a change from one dwellinghouse (which includes a flat) to two or more dwellinghouses constitutes a material change of use; however, there is no guidance in terms of the merging of two or more dwellinghouses to a lesser number.

In this case, the conversion relates to 2 semi-detached dwellings into a single dwelling. The application form sets out that only internal changes are proposed and no external changes. The existing front doors would be retained. One of these doorways is on the front elevation of the building and the other doorway is on the side elevation. The converted dwelling would be connected via internal doorways.

Some floor plans have been provided to show the internal alterations; however, the existing ground floor plan is missing. Notwithstanding this, it appears that only internal works are proposed, and it is considered that planning permission is not required for internal works to the building in this case as the building is not listed.

The submitted plans appear to show that the site currently contains 3 bedrooms in each of the existing dwellings, whereas there would be 4 bedrooms within the amalgamated dwelling.

Whilst no operational development is proposed, it remains necessary to consider whether the proposed conversion of the site to form a single dwelling instead of two separate dwellings comprises a "material" change of use.

Limited information has been provided by the applicant to explain why they consider that the proposals would be lawful. For example, a supporting statement has not been provided. Notwithstanding this, relevant case law has been considered.

For example, in *'Richmond upon Thames London Borough Council v Secretary of State for the Environment, Transport and the Regions* ', a certificate had been applied for to convert 7 flats into a single dwelling. The court found that the inspector had erred in examining only the external manifestations and not the nature of uses before and after. The change gave rise to planning considerations including the loss of a particular type of accommodation which was a material consideration and should have been taken into account in determining whether a material change of use had arisen. The court found that there could be a material change of use if it gave rise to a planning consideration. The Richmond case held that whether planning permission is required for amalgamation should be a matter of fact and degree as to whether the loss of an existing use represents a material change having regard to the planning merits of the area, any planning policies in place and evidence of need. For example, if the loss of dwellings due to amalgamation had 'important planning considerations and effects' it should normally be considered to involve a material change of use.

In the above referenced Richmond case, the judge listed the following 6 points:

1) A planning purpose is one which relates to the character of use of the land;
2) Whether there would be a material change in the use of land or buildings falling within the 'development' depends on whether there would be a change in the character of the use of land;

3) The extent to which an existing use fulfils a proper planning purpose is relevant in deciding whether a change from that use would amount to a material change of use. Thus, the need for a land use such as housing or a type of housing in a particular area is a planning purpose which relates to the character of use of the land:
4) Whether the loss of an existing use would have a significant planning consequence(s), even where there would be no amenity or environmental impact, is relevant to the assessment of whether a change from that use would represent a material change of use;
5) The issues in 2) and 4) above are issues of fact and degree for the decision maker and are only subject to challenge on public law grounds;
6) Whether or not a planning policy addresses a planning consequence of the loss of an existing use is relevant to, but not determinative of, an issue under 4) above.

The need for housing represents a planning purpose which relates to the character of the use of land. The amalgamation of the two dwellings would have planning consequences as a result of the net reduction of one dwelling from the area's housing stock. The question is whether the planning consequences are significant.

The safeguarding of existing housing units has been held to serve a planning purpose which relates to the character of the use of the land. This was upheld in *'RB Kensington and Chelsea v (1) Secretary of Statement for Communities and Local Government (2) David Reis (3) Gianna Tong* EWHC 1785'. The court agreed with RBKC that it was lawful to consider the extent of amalgamations in the borough and whether that was having a material effect on reducing the number of dwellings in the housing stock which was a matter of public interest.

In this case, the council is able to demonstrate a 5-year housing land supply and there are no policies within the Local Plan that specifically resist the amalgamation of dwellings. It is not considered that there is a prevalence of housing amalgamations that is likely to have a material effect on reducing the number of dwellings in the area's housing stock.

It is considered that the proposal would not result in any significant difference in the character of the use of the land. For example, the proposal is not considered likely to result in an significant amenity or environmental impacts. Instead, it is possible that the proposed amalgamation would reduce the intensity of the existing use of the site as it is likely that only one household would occupy the site rather than two households. There would also not be any significant planning consequences as a result of the amalgamation.

Therefore, it is considered that there would not be a material change of use as a result of the amalgamation and consequently, the proposal does not require full planning permission in this instance.

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

The proposed amalgamation of the two dwellings within the site into a single dwelling is not considered to comprise a material change of use in this instance. As such, it is considered that the proposed development would be lawful, and that a certificate of lawfulness can be issued under S192 of the Town and Country Planning Act, 1990.

Recommendation

A certificate of lawfulness should be issued under S192 of the Town and Country Planning Act, 1990.