

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-1082-21 **Applicant:** Allison Homes Ltd.

Proposal: Details of existing & proposed site levels & floor levels and hard surfaced areas (Condition 6 of H13-1215-18)

Location: Land North Of Roman Road Moulton Chapel Spalding

Terminal Date: 13th December 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development

National Guidance

National Planning Policy Framework 2021

Section 12. Achieving well-designed places.

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

The application is to discharge condition 6 of H13-1215-18, which is as follows;

"Notwithstanding the submitted plans full details of the existing and proposed site levels and proposed floor levels of the buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority before development is commenced. The development shall be constructed in accordance with the details so approved.

Note: Finished floor levels and boundary screening shall be such as to protect neighbouring residents from significant overlooking at ground floor level.

Reason: To ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents, its visual and architectural relationship with adjacent development and also flood risk. 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, 3 and 4 of the South East Lincolnshire Local Plan, 2019."

History

H13-1215-18 - Full - Erection of 86 dwellings and associated works - Granted 8 March 2021.

H13-0846-21 - C/C - Details of external materials, boundary treatment & construction management (Conditions 3, 5 & 7 of H13-1215-18) - Still under consideration.

H13-0977-21 - C/C - Details of scheme to deal with contamination, estate road & footways, surface water drainage & foul water drainage including connection points & discharge rates (Conditions 9, 15, 16 & 17 of H13-1215-18) - Still under consideration.

Planning Considerations

The main issue in this case is the likely impact upon the amenity of neighbouring property.

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

Finished floor levels only need to be in the region of 300mm above existing ground levels on flood risk grounds in accordance with condition 8 of H13-1215-18. However, it is proposed to raise finished floor levels significantly above this on drainage grounds. The rear of the proposed dwellings within the western section of the site face existing properties off Braybrooks Way, Wiles Avenue and Benton Close. Finished floor levels in respect of the proposed dwellings within this section of the site would be some 1.34m (plot 1) to 1.73m (plot 21) above existing ground levels along the western boundary.

The height of the boundary fencing proposed is some 1.8 metres, as indicated in condition compliance application ref. H13-0846-21, which is still under consideration. This would be insufficient to prevent overlooking of neighbouring properties to the west. To address this matter, a fence approximately 3.4 metres in height would be required, which would have an unacceptable impact upon the amenity of neighbouring residents.

Conclusion

The proposed site and finished floor levels would have an unacceptable impact upon neighbouring residents to the west of the site in particular by reason of overlooking/lack of privacy and/or overbearing effect. It is therefore recommended that the application be refused.

The submitted details therefore fail to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

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.