

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0138-25 **Applicant:** Mr J Priestley

Proposal: Erection of 9 detached bungalows - approved under H14-0042-24.
Modification of Condition 2 to allow amendments to previously approved plans

Location: Land Off Crossgate Lane Pinchbeck Spalding

Terminal Date: 18th July 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

| | |
|------------|--|
| 01 | Spatial Strategy |
| 02 | Development Management |
| 03 | Design of New Development |
| 04 | Approach to Flood Risk |
| 05 | Meeting Physical Infrastructure and Service Needs |
| 06 | Developer Contributions |
| 10 | Meeting Assessed Housing Requirements |
| 11 | Distribution of New Housing |
| 17 | Providing a Mix of Housing |
| 18 | Affordable Housing |
| 19 | Rural Exception Sites |
| 28 | The Natural Environment |
| 30 | Pollution |
| 31 | Climate Change and Renewable and Low Carbon Energy |
| 32 | Community, Health and Well-being |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

National Guidance

National Planning Policy Framework December 2024

Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed 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 |
|--|--------|---------|---------|----------|
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| PARISH COUNCIL | 0 | 0 | 1 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 0 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |
| SHDC INTERNAL | 0 | 0 | 2 | 0 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |

CASE OFFICER ASSESSMENT

Proposal

This application is a Section 73A seeking to vary Condition 2 of planning approval H14-0042-24 to allow amendments to previously approved plans. Application H14-0042-24 was in turn a Section 73 application of H14-0348-23.

Permission exists on this site for the erection of 9 number dwellings.

The applicant has provided a covering letter which states that the changes have been forced by the discovery that a AWA High Pressure water main located inside the site and parallel to the southern boundary, the amendments include:

- Repositioning dwellings further into the site (northwards)
- Pedestrian footway provided to the north of plots 1, 2, 3 & 4
- Details on private drives
- Plot 1 - Minor changes including fenestration. relocated northwards
- Plot 2 - Now mirrors the house type on plot 3 relocated northwards
- Plot 3 - Same House type, relocated northwards
- Plots Same House types 4, 5 6 & 7 reoriented.
- Plots 8 & 9 same house types
- Minor changes to the landscaping scheme across the site
- Updated materials schedules
- Minor changes to CEMP
- External Materials updated

The application is accompanied by a full suite of drawings

Site Description

The site is a former greenfield site measuring approximately 1.45 hectares in size, but benefits from an extant permission to erect 9 number dwellings. To the east the site is bordered by Crossgate Lane and Surfleet Road, with properties opposite and a footpath/area of verge. To the south are properties on Captains Beck. To the west is Gallery Walk pedestrian footpath and agricultural fields beyond. To the north are properties on Flaxmill Lane and Crossgate Lane.

The site is outside the settlement boundary of Pinchbeck and is considered to be countryside for policy purposes.

The application site lies within Environment Agency Flood Zone 3 and the vast majority of the site is identified within the SFRA as a mixture of 'Low Hazard', 'Danger for Some' and 'Danger to Most' (the majority of the site being the first two of these designations) in terms of flood hazard and in the main are 1.25 - 2.0 metres in terms of predicted flood depth.

The principle of residential development is already established on this site, both in terms of the overarching spatial strategy as well as flood risk principle.

History

H14-0189-24 - Details of external materials, archaeological investigation, site levels/finished floor levels and proposed boundary treatments (Conditions 3, 4, 10 and 11 of H14-0348-23). Discharged

H14-0042-24 - Section 73 - Erection of 9 detached bungalows - approved under H14-0348-23. Modification of wording of Condition 14, including details relating to the arrangements for private refuse/recycling collection and Modification of Condition 2 to allow amendments to previously approved plans. - Approved 28.06.2024

H14-0348-23 - Full - Erection of 9 detached bungalows - 21.12.2023

H14-1032-21 - Reserved Matters - Residential development - Approved 23.02.2022

H14-0912-17- Outline - Residential development - Approved - 27.11.18

Consultation Responses

Parish Clerk

No objections

Anglian Water

Foul Water Comments: The foul strategy as outlined 14-1029 - LDG - 00 - S - DR - C - 33300 P03 is acceptable to Anglian Water

Surface Water Comments: The surface water strategy as outline din 14-1029 - LDG - 00 - S - DR - C - 33300 P03 is not relevant to Anglian Water

Highways & SuDs

1st Response

Erection of 9 detached bungalows - approved under H14-0042-24. Modification of Condition 2 to allow amendments to previously approved plans. This is a private development - the footway has been omitted from the design which is acceptable. Please ensure that the footway around the junction and the tactile crossing on Crossgate Lane is annotated on the drawing - this will have to be done under a Section 278 Minor Works Agreement with Lincolnshire County Council

2nd Response

No Objection - "The proposal is for minor amendments to 2 that already has approval under H14-0042-24. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk."

Environmental Protection

No comments regarding land contamination

Welland & Deeping IDB

I notice that current surface water proposals have been amended and based on the submitted information of a total impermeable area of 0.436 ha and a maximum flow restricted to five

litres/second, results in a development contribution of £14,120.30 payable in advance of connection. Please note that development contributions are subject to annual increase in line with RPI.

I also note from the submitted proposed surface and foul water drainage plan reference: 14-1029-LDG-00-S-DR-C-33300, Revision P03 that the proposed foul water sewer connection is displayed across the Board's Gallery Walk Drain. The Board requests that this is installed with a minimum clearance of one metre below the hard bed of the drain and the prior written consent of the Board will be required to undertake this work.

Evaluation - Section 73

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Conditions 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Assessment

The principle of development is already established on this site and the site benefits from an extant permission to erect 9 number dwellings, there is therefore no requirement to discuss matter of planning principle. . This application seeks to make changes to the location of the dwellings, provision of a new footway and details on private drives.

The following issues are relevant to this assessment:

- Character & Landscape
- Amenity
- Drainage
- Highways Safety
- Reattachment of conditions

Character & Landscape

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process

should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Likewise, Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals.

Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

The site layout is subject to some small changes, these include moving dwellings slight northward within the site to compensate for the discovery of the AWA High Pressure water main, which has necessitated the increased separation distances. There are also minor tweaks to the landscaping, especially around dwellings that have been subject to change.

The dwellings themselves, are all types that have been previously approved. However, some plots have been swapped around to allow for a more functional layout (these changes are described within the proposal section of the report).

The external materials schedule has also been updated, this documents show that a Belgravia Gault Blend facing brick by Forterra is proposed, Russell Roof Tiles; Grampian Grey black rainwater goods and a mix of boundary treatment (post and rail as well as close boarded) are proposed.

It is considered that the changes, which would not result in overly altering previous permissions are acceptable. The house types have already been approved and the changes to the landscaping are as a result of the reorientation and relocation of dwellings accords the scheme. Lastly the palate of materials put forward are considered acceptable.

On this basis, taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

Amenity/Environmental Issues

Paragraph 135 of the National Planning Policy Framework (December 2024) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 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 of the SELLP relates to pollution which includes noise.

Notwithstanding the plot substitutions (for already approved house types), a sufficient separation distance is retained between each dwelling so as no to result in an unacceptable level of overshadowing/overbearing upon one another, Furthermore all openings are position in a way to limited the effects from overlooking. As regards dwellings outside of the application site IDB

accesses as well as ditches means that the dwellings that make up this development retain sufficient separation distances.

In terms of polluting activities the applicant has provided a CEMP showing the location of site offices and welfare facilities as well as area for skips and wheel wash (including method of wheel washing). A traffic management plans has also previously been approved on this site. It is considered that this is appropriate along with a condition that would limit construction hours. Once operations, the residential development would be acceptable in these terms.

As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Drainage

Policy 4 of the South East Lincolnshire Local Plan relevant to this assessment. However it is noted that in terms of flood risk principle, this site is already established as being acceptable.

In terms of the surface water drainage the solution is to attenuate and then direct flows into the watercourse. The IDB have confirmed that this carries a development contribution (which is payable to them) prior to the development commencing. This agreement is to be between the landowner and the IDB. The LLFA have no comments to make on this. Anglian Water have also confirmed that the foul water drainage strategy is acceptable, at this stage. However given that there are outstanding elements to be considered, the conditions relating to both surface water and foul water will be reattached. The agent has also confirmed in a document entitled 'assessment of planning conditions' that this is to be the case.

Overall, when considering the development on balance, it is considered that the proposal would accord with Policy 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.

Highway Safety

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".

In respect of highway matters, 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 relates to accessibility and travel mode choice.

The applicant shows on the updated site plan that an area of footpath (which is to be adopted) is located around the junction on Crossgate Lane. These works are to be subject to an agreement between LCC and the developer. Within the site the applicant also shows a pedestrian footway along the north of plots 1, 2, 3 & 4, it allows for dwellings at the end of the cul-de-sac to be reached on foot (within the landscaping of the roundabout footways are shown).

All plots have their own access, with ample off-street parking provision. There is also space for vehicles to enter and leave sites in a forward gear.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2024).

BNG

Policy 28 of the South East Lincolnshire Local Plan (2019) seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace and promote biodiversity net gain by protecting the biodiversity value of land, maximising opportunities to enhance and connect natural habitats, incorporate biodiversity conservation features to enhance green infrastructure and

ecological corridors, and conserve or enhance habitat to adapt to climate change.

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

This proposal is an amendment (variation of previous permission) it is therefore not subject to mandatory net gain requirements. On this basis the proposal is acceptable, especially given the proposed landscaping is likely to increase BNG on site, and so meet policy requirements.

A biodiversity and mitigation plan was previously approved on this scheme. As part of this submission it has been updated, it will form part of the suite of approved documents and therefore will be required to be implemented.

On this basis the proposal is in accordance with SELLP Policy 28.

Reattachment of Conditions

An application made under S73 was approved (under H14-0042-24) on 28th June, 2024, it was subject to conditions relating to:

- Compliance to agreed materials
- Compliance with Archaeological Monitoring and Recording
- Compliance with agreed landscaping scheme
- Measures set out with the FRA (78089R2, compiled by GeoSmart Information Ltd, dated, 27 April 2023 - of planning approval reference H14-0348-23)
- Site levels
- Compliance with agreed boundary treatments
- A surface water drainage strategy to be submitted to and agreed in writing with the LPA
- Foul Water strategy to be submitted to and agreed in writing with the LPA
- Compliance with in accordance with the refuse collection and recycling storage facilities
- Removal of PD
- Details in accordance with the Construction Management Plan and Construction Environmental Management Plan

It is noted that there are a number of amended documents as part of this submission. These will duly be conditioned in compliance form as part of any permission. Drainage conditions (surface water and foul) will be conditioned in pre-commencement form as under previous applications. The agent has also confirmed in a document entitled 'assessment of planning conditions' that this is accepted, and therefore the LPA duty under the requisite notice (pre-commencement condition regulations) is met in this instance.

Also as part of this submission an updated site layout (showing levels) and Biodiversity management plan have been provided.

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 moderate changes to an already approved scheme. All topics discussed in this report (and under previous permissions) will be mitigated through conditionality.

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.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED)

under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Taking into consideration these factors, the proposal is considered to accord with Policies 2, 3, 4, 7, 28, 30 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis the proposal is recommended for approval.