DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0455-24**	**Applicant:**	**Cecil Francis Ltd**
Proposal:	Proposed demolition of commercial buildings and HMO and subsequent construction of 3 dwellings and the change of use of offices to dwelling together with a detached garage and associated external works - approved under H14-0706-22. Modification of Condition 2 to allow amendments to previously approved plans.		
Location:	Cecil Francis Business Park Bear Lane Pinchbeck		
Terminal Date:	17th July 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
30	Pollution

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 12 - Achieving well-designed places
Section 16 - Conserving and enhancing the Historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
HISTORIC ENVIRONMENT OFFICER	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 is an application for the variation of condition associated with planning application H14-0706-22. The variation relates to condition 2 which was the approached plans condition. The applicant seeks to vary the dwelling previously approved on plot 2, namely to:

-Make changes to its roof design, allowing for a greater amount of floor space on the first floor (this would increase the floor space associated with bedroom1)

This would result with the ridge intersecting the main body of the dwelling more centrally, the eaves height would still align, though there is a step down in term of height from the main ridge.

Site Description

The application site which benefits from planning permission to erect dwellings relates to the former Cecil Francis Business Park which was made up of several different commercial uses as well as a residential hostel.
The site contained a mix of commercial purposes, some of which operated on a 24 hour basis. There were 6 buildings on the site. Block 01 - HMO Blocks 2 to 5 inclusive - commercial and office. Block 6 - Office.

The site is located within Flood Zone 3 as shown on the Environment Agency's Flood Zone Map and is located within the Pinchbeck Conservation Area, There is an adjacent Grade II Listed building nearby - No.13 Graft House.
The site is approximately 200m east of the main shopping area in Knight Street and approximately 60-100m north of the junction of Bear Lane and Knight Street. On its north-east side the site boundary is the side of Bear Lane.

History

H14-0012-22 - Proposed demolition of commercial buildings and HMO and subsequent construction. Approved 18-03-22

H14-0706-22 - Proposed demolition of commercial buildings and HMO and subsequent construction of 3 dwellings and the change of use of offices to dwelling together with a detached garage and associated external works - approved under H14-0012-22. Modification of Condition 2 to allow amendments to previously approved plans. Approved 19-08-22.

H14-0915-22 - Details of construction method statement, archaeological investigation, excavation methods. Conditions 3, 5 and 13 of H14-0706-22. Design of all external doors and door frames and details of the window frames - Plot 4 only. Approved 19-10-22

H14-0224-24 - Details of surface water disposal, external materials, external doors/door frames, window frames and gas/electricity boxes (Conditions 9, 14, 15, 16 and 19 of H14-0706-22). Approved 16-05-24

H14-0291-24 - Proposed demolition of commercial buildings and HMO and subsequent construction of 3 dwellings and the change of use of offices to dwelling together with a detached garage and associated external works - Approved under H14-0706-22. Amendments to bedroom 1 roof for Plot

2 - Withdrawn

Consultation Responses

Parish
The S73A continuation is in keeping with the original proposals

Historic Environment Officer

Due to the area's archaeological sensitivity, a previous application H14-0012-22 was granted planning consent with conditions (5, 6 and 7) requiring an archaeological scheme of works. Please note that the archaeological work of application H14-0012-22 including the archaeological monitoring, final report, the publication report, and deposition of the site archive will need to be completed in full before condition 6 and 7 from application H14-0012-22 can be discharged. No objection to Modification of Condition 2.

Highways & Suds Support

No Objections

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 would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments: The application is for the modification of Condition 2 to allow amendments to previously approved plans. The proposed changes to plot 2 do not have any impact on the public highway

Historic England

No comments

Environmental Protections

No comments

IDB

No comments

Planning Considerations

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, 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.

Scope of Section 73 Application

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.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

The following issues are relevant to this assessment:

-Heritage and Design
-Amenity
-Reattachment of planning conditions

Heritage & Design

In respect of any buildings or other land in a conservation area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990.

The National Planning Policy Framework (NPPF) (December 2023) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (December 2023) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

SELLP Policy 29 is concerned with the Historic Environment. It states that distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced. The policy discusses impacts upon listed buildings, and their setting, conservation areas as well as archaeology, parks and gardens, enabling development amongst other things.

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 proposals 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 seeks to make changes to house type 2 which was previously approved under planning permission H14-0012-22 and drawing; A1534-13 P1. The current proposal consists of a one and half storey pitched roof over Bedroom 1 and a single storey flat roof over the snug. The proposal omits the flat roof, extends bedroom 1 over the snug allowing for the creation of a changing room, and provides a pitched roof over the wider bedroom and en suite area.

In terms of the additional built form, this is set at first floor. Plot 2 is located in between plots 1 and 3 and the proposed changes would largely bee screened, moreover given that the changes would have limited effect upon the already approved principal elevation the proposal is acceptable. Any impacts would be extremely localised on this basis and unlikely to carry a wider impact upon the conservation area.

In terms of materials these are not mentioned within the submission, however external materials have been approved under discharge of conditions application H14-0224-24 and these are shown

on plan number A1534-34 B4 and contained within the 'schedule of external materials to discharge condition 14 ' supporting document. This information shows that 'Wienerberger Hathaway Brindled' facing brick will be used above DPC course (blue engineering bricks below), Sandtoft 2020 Antique Slate will dress the roof and a Cedral click weatherboard will treat the apex of gables. This document also includes window and door openings, all of which are previously approved. Any permission achieved will therefore be linked to these materials.

On this basis it is considered that the proposal would accord with SELLP policies 2, 3 and 29 as well as well as Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990 and Section 16 of the National Planning Policy Framework.

Amenity

SELLP Policy 2 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.

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

NPPF Paragraph 135f 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.

The proposed changes would not result in the creation of additional openings, however the Juliet balcony to the rear of Bedroom 1 would be set further back. The impact from this are considered acceptable as they would only allow views into the rear amenity spaces (associated with plot 2) and the tennis courts beyond). All other openings are located in appropriate locations.

In terms of the impact relating to overshadowing and overbearing the proposal is likely to carry only limited impacts. The only side openings proposed are those serving the entrance hall wall and only to the rear serving the lounge. The additional built form in the proposed location would have only a limited additional impact upon these openings and not at a level that would warrant refusal.

Therefore, on this basis the proposal is conserved to align with SELLP Policies, 2, 3 and 30 as well as NPPF paragraph 135f.

Reattachment of planning conditions

Two discharge of planning application have been submitted and approved by the local planning authority. They are outlined within the planning history section. Ultimately planning permission H14-0706-22, which was a S73 application submitted following the parent permission (H14-0012-22) have become the permission built out on site. Of planning application H14-0706-22 conditions 3, 5, 9, 13, 14, 15, 16 and 19 have all been discharged.

The wording of these condition will therefore become compliance. All original compliance conditions that are relevant will also be attached to any permission.

Conclusion

The proposal seeks to make minor alterations to the overall approved scheme, changing part of the roof structure previously approved on plot 2. The proposal is considered acceptable and would not give rise to any unacceptable impacts in relation to heritage, design or amenity.

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.