DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0809-22**	**Applicant:**	**Bellway Homes**
Proposal:	Proposed Residential Development of up to 96 Dwellings - approved under H14-0720-18. Addition of condition to remove the Permitted Development Rights to convert the garages into additional living accommodation.		
Location:	Land Off Wardentree Lane Pinchbeck Spalding		
Terminal Date:	9th September 2022		

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
28	The Natural Environment
29	The Historic 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
APPENDIX 8	Developer Contributions for Education Facilities
APPENDIX 9	Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework 2021

NPPF 2021.

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

NON MAT AMENDMENT - Proposed Residential Development of up to 96 Dwellings - approved under H14-0720-18. Addition of condition to remove the Permitted Development Rights to convert the garages into additional living accommodation.

This application is explained by the agent's letter of 12 August 2022, and is requested as a result of the applicant wishing to negate the requirement to provide gas protection measures within the garages for the approved
scheme.

As no restrictions were applied to the outline or reserved matters consents to prevent future occupiers from converting their garages under Permitted Development Rights to provide additional living accommodation, this application seeks to remove the permitted development rights for such works.

The applicant proposes the following wording:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any order amending, revoking or re-enacting that Order), the garages hereby approved shall not be adapted or used for any purpose other than the storage of private motor vehicles and ancillary domestic storage, without the grant of a further planning permission by the local planning authority."

A plan was also submitted showing the locations of the garages.

Site Description

As host consent, although works are advanced.

History

H14-0566-22. CONDITION COMPLIANCE. Details of method statement detailing the remediation requirements for land contamination and pollution of controlled waters (Condition 8 part iii of H14-0720-18). UNDER CONSIDERATION.

H14-0165-21. RESERVED MATTERS. Erection of 96 dwellings and associated works - outline approval H14-0720-18. APPROVED 2-01-22.

H14-0720-18. OUTLINE. Proposed residential development of up to 96 dwellings. Approved 08-03-19.

H14-0862-21 MODIFIED AGREEMENT. Modification of 106 Agreement to vary the mortgagee exclusion clause and the recycling provisions contained in the agreement (relating to H14-0720-18 - Proposed residential development of up to 96 dwellings). Approved 13-12-21.

H14-0650-21. CONDITION COMPLIANCE. Details of programme for phasing, contamination, construction management plan & prevention of mud deposits on public highway (Conditions 4, 8 parts i & ii, 14 & 15 of H14-0720-18). Approved 4-11-21.

H14-0757-21. CONDITION COMPLIANCE. Details relating to Flood Risk Assessment, surface water drainage scheme and foul water drainage strategy (Conditions 9, 13 & 16 of H14-0720-18). Approved 2-9-21.

H14-0686-21. CONDITION COMPLIANCE. Details of open space, management plan for areas of publicly accessible open space and outdoor play areas and management & maintenance of

communal areas (Conditions 5, 6 & 7 of H14-0720-18). Approved 2-9-21.

H14-0838-21. CONDITION COMPLIANCE. Details of final report in relation to archaeology - Condition 18 of H14-0720-18. Approved 12-08-21.

Consultation Responses

N/A.

Planning Considerations

Section 96A of the Town and Country Planning Act 1990 (introduced by S190 of the Planning Act, 2008) makes it possible to apply for a non-material amendment to existing planning permissions.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non material amendments will be approved subject to the following criteria being met:

1. There would be no alteration to the application site boundary (red edge).
2. The amendment would not conflict with Development Plan Policies or other Government Guidance.
3. The proposal would not exacerbate concerns raised by third parties at original planning application stage.
4. The proposed change would not be contrary to a condition on the original approval.
5. The approved footprint/siting of the building will not be moved materially and will not have a material impact on a neighbour.
6. The height of the building or extension would not be increased.
7. The amendment would not result in any potential overlooking of any neighbouring property.
8. The amendments must not result in a fundamental change in the design of the building.
9. The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

Assessing the application against the above criteria:

1. No alterations are proposed to the site boundary;
2. The proposal would not conflict with policies in the South East Lincolnshire Local Plan, 2019 or the provisions of the NPPF 2019.
3. The proposal would not exacerbate concerns raised by third parties at original planning application stage;
4. The proposed change would not be contrary to a condition on the original approval;
5. The positioning of the buildings would not be altered;
6. There would be no height increase to the buildings;
7. No potential overlooking issues would arise;
8. The proposal relates minor boundary changes within the site a revised route of foul sewer and required level adjustments. It would therefore not result in a fundamental change in the design of the building;
9. No Environmental Statement was submitted.

Conclusion

APPROVE. Amended wording of the suggested condition to tie to the submitted drawing and to give a reason for the condition.

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.