

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-1023-21 **Applicant:** Mr S Chapman
Proposal: Residential Development - Erection of 2 Dwellings
Location: Adj. 202 Spalding Road Pinchbeck Spalding
Terminal Date: 31st December 2021

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development
 Section 5. Delivering a sufficient supply of homes
 Section 11. Making effective use of land
 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
 Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN, HISTORIC	0	0	0	1

ENVIRONMENT OFFICER				
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Outline planning permission is sought for residential development (2 plots) with all matters reserved for subsequent approval, on land adjacent to 202 Spalding Road, Pinchbeck.

SITE DESCRIPTION

The site is located to the east of Spalding Road at the southern end of Pinchbeck. It includes a private access road, which already serves a number of existing low occupancy units and two larger detached houses. The land where the dwellings are proposed to be sited is garden land associated with 202 Spalding Road. To the south-east is a development of 72 dwellings, which is still under construction. Beyond that is the Johnson Community Hospital. To the north are frontage properties on Spalding Road and an area of grassed land off Enterprise Way, which is allocated for employment uses.

RELEVANT HISTORY

H14-0834-17- Approved on 28-11-17- Construction of proposed single bedroom apartments.

REPRESENTATIONS

Welland & Deepings IDB

No comments.

Ian Marshman, Historic Environment Officer, Lincolnshire County Council

No archaeological impact.

SHDC Environmental Protection Officer

Requests the standard land contamination condition be applied.

Local Highway and Lead Local Flood Authority

The principle of development is acceptable. As this is an outline application with all matters reserved, access and layout have not been considered. The requirements for access, parking, visibility, turning and layout are as detailed within the Lincolnshire County Council Design Approach and Development Road Specification. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage on all Major Applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the drainage proposals for this planning application.

Public comments (1 no. summarised)

Concerns over the access to cesspit and ensuring that there is enough room for the sludge removal vehicle to turn around.

PLANNING CONSIDERATIONS

The main issues in this case are:

- Principle
- Character and Appearance
- Residential Amenity
- Highway Safety and Parking Provision
- Private Drives
- Flood Risk and Drainage

Principle

The site lies within Pinchbeck's Settlement Boundary as defined in the South East Lincolnshire Local Plan (SELLP), 2019.

Policy 1 (Spatial Strategy) of the SELLP indicates that within Main Service Centres, including Pinchbeck, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. No objections are therefore raised on locational grounds.

Character and Appearance

Policies 2 and 3 of the SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. They are consistent with advice within the National Planning Policy Framework (NPPF), 2021. Paragraph 130 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting.

The proposal is for backland development, however there are already a number of other residential properties served by the private drive therefore it would not be introducing an alien form of the development to the area. It is also unlikely that the new dwellings would be particularly visible from Pinchbeck Road given the intervening buildings.

The full appearance, scale and layout of the dwellings would be considered in Reserved Matters stage, but on the basis of the indicative block plan and the site visit undertaken, it is considered that the site could accommodate 2 x 2-storey dwellings satisfactorily.

In light of the above, the proposal is considered to comply with Policies 2 and 3 in the SELLP, 2019 in terms of character and appearance (as far as it can be assessed at outline stage).

Residential Amenity

Paragraph 127 of the National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

Taking into account the indicative details of the proposals, it is considered that 2 dwellings could be accommodated on the site whilst maintaining a satisfactory relationship between the proposed plots and the existing dwellings at nos.202 and 206 and the surrounding low occupancy residential units.

The dwellings could be sufficiently spaced out and each plot would benefit from a reasonable sized garden to the rear of the dwelling. However, the proposals are in its outline form and further details should be considered at reserved matters stage to conclude the extent to which the scheme would ensure good levels of amenity.

Raising floor levels by around 300mm would not adversely affect residential amenity of surrounding

properties given the minimal height difference.

Public comments include concern regarding the disposal of waste from their cesspit situated adjacent to the proposed plot 1. Whilst this is a consideration, it is not one which can carry material weight in the overall planning balance as it is a civil land ownership matter.

Land to the north is allocated for employment uses, however other dwellings have been constructed in close proximity to such uses adjacent Enterprise Way in recent times (e.g. the former Spalding Lifestyle site) and appropriate mitigation has been incorporated.

Details of boundary treatment will be secured by means of a condition compliance application.

Taking the above into account, the proposed development is deemed to comply with Policies 2 and 3 in the SELLP, 2019 and Section 12 in the NPPF, 2021 in terms of residential amenity (as far as it can be assessed at outline stage).

Highway Safety and Parking Provision

The Local Highway Authority has been consulted and no objection has been raised to the principle of developing housing at such a location. However, the proposals are in its outline form with all matters reserved, therefore specific access details are not available at this stage and the Local Highway Authority want to raise awareness to appropriate access, parking, visibility, turning and layout to be considered, as detailed within the Lincolnshire County Council Design Approach and Development Road Specification.

In terms of parking provision, the proposals should comply with the minimum parking standards set out in Appendix 6 of the SELLP, 2019. Although the submitted block plan is only indicative in nature, it is considered based on that, that an acceptable level of parking provision would appear capable of being achieved.

Private Drives

A recently published Council guidance note entitled 'Private Drives - Waste Vehicle Collection Service' sets out a hierarchy for developers to follow when considering waste collection arrangements and private drives. This guidance is not adopted planning policy and as such can only be given limited weight in planning terms. However, it is a material consideration. The relevant section of this guidance note states:

"The Council, as local planning authority, is obliged to take into account the Council's adopted waste collection policy when determining planning/condition compliance applications for waste collection details as it should avoid approving waste collection schemes which are not capable of being provided. The following guidance is therefore provided for developers when seeking planning permission for new developments. The guidance seeks to ensure that developers are fully aware of waste collection issues when submitting planning applications with a view to avoiding later problems, such as poor design under policy 3 of the South East Lincolnshire Local Plan (Adopted March 2019). The following does not constitute adopted planning policy.

1. It is firmly recommended that new developments should seek to minimise private drives when preparing and submitting planning applications. Access roadways to all residential properties should normally be constructed to an adoptable standard under an agreement with Lincolnshire County Council so that they will become public highways to enable refuse/recycling collections to be carried out from outside individual properties without the need for communal waste collection points at the point where private driveways adjoin public highways. This is the preferred solution of the Council as waste collection authority from an operational perspective. Furthermore, it avoids the potential impacts of unmanaged depositing of waste, which can lead to unacceptable impacts upon the visual and residential amenity of communities.

2. Where private drives are unavoidable, the Council would expect to see no more than 6 properties from any one private drive and a carrying distance of less than 30m. In order to judge the suitability of proposals to be served from private drives, the Council will apply a carrying distance of no greater than 30m measured from the nearest point of the plot adjacent to the private drive. This is reflective of Building Regulations Guidance on carrying distances for waste from households. Developers are advised to contact the waste collection service to determine the proposed collection point.

3. Should the proposal include a joint storage area for waste, this will serve no more than 6 properties and should be sited on land owned by a proprietor of the private drive. Storage areas should still allow for collection of the waste by the Council from the public highway. An area of 800mm x 800mm should be provided for each property using the collection point. Design and siting will be expected to take account of impact upon both visual and residential amenity and demonstrate how these impacts have been minimised. Definitive information on the on-going maintenance and responsibility for waste collection points will be required to protect against unmanaged depositing of refuse. The Council may take appropriate enforcement action if the waste collection point is not reasonably maintained.

4. Where private drives are included in a development proposal and the above criteria cannot be met then it may be possible to provide for a private waste collection from individual properties. This would avoid the impacts arising from unmanaged depositing of waste. This may necessitate the developer entering into a section 106 agreement to ensure future delivery of the service.

5. If a private waste collection is not deliverable it is expected that private drives will be minimised through the design or re-design of the scheme to avoid the above concerns.

The Council will apply the above hierarchical approach to waste collection solutions on new developments. It will achieve this via negotiation at pre-application stage, during consideration of planning applications and the discharge of planning conditions. Standard conditions will be applied in relation to roads being constructed to adoptable standard and, on outline planning applications, securing details of waste collection. Full and reserved matters applications will be expected to include full details of the waste collection solution to be secured up-front.

Where all of the above measures have been reasonably exhausted, the Council may agree to collect waste from private drives in exceptional circumstances."

The applicant and their agent are aware of the above guidance and that the distance from each of the proposed dwellings to the collection point adjacent Spalding Road would be in excess of 30m. However, they have put forward an argument that the arrangement of presenting refuse/recycling sacks kerbside would effectively be an extension of the long-standing arrangement for refuse collection for the all the other properties served by the private drive, 7 of which already exceed the 30m distance. The two new dwellings would not have an impact on the 'weekly refuse holding area' behind the low brick wall at the site frontage as they would have their own refuse storage within their curtilage. Furthermore, it is arguable that the refuse/recycling from two additional properties would not have a material adverse amenity impact when presented on collection day considering the number of properties already presenting sacks kerbside.

Whilst the desire to follow the hierarchy set out in the guidance is clear, there will be circumstances where departure from the preferred approach should be considered, and backland development of a single or two units may be one such circumstance.

On the basis of the above, officers are of the view that it would be appropriate to allow kerbside collection in this instance.

Flood Risk and Drainage

The NPPF requires the application of the Sequential Test to steer new development to areas with the lowest probability of flooding. If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) is the basis for applying the Sequential Test. This concludes that the vast majority of South Holland District is in Flood Zones 2 and 3. Therefore, consistent with wider sustainability objectives, it is not realistically possible to direct all development to zones with a lower probability of flooding. As such, the document outlines a methodology whereby the SFRA hazard and depth maps (in that order) are to be utilised when determining flood risk and applying the sequential test. Using this methodology it is possible to use the information to steer development towards the areas of lower flood risks as advised within Section 14 of the NPPF.

The majority of the site is located within Environment Agency Flood Zone 3 and therefore, a sequential test should be undertaken.

The South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) indicates that the site at worst case scenario is situated in a low hazard area on the 1% fluvial and 0.5% tidal event probability in 2115, with potential for flood depths up to 0.25m.

The Local Plan has allocated sequentially preferable sites in terms of flood risk that are capable of meeting the identified housing targets for individual settlements. Although the application site is not a housing allocation within the Local Plan (only suitable sites capable of accommodating 10+ dwellings have been allocated), the site does lie within the settlement boundary for Pinchbeck. In general, there is a presumption in favour of sustainable development within settlement boundaries and windfall sites are expected to have a contribution towards housing supply (and maintaining the 5-year supply of deliverable sites) in the district. As such, one could argue that, should the site be acceptable in all regards, and if the Exceptions Test is successfully passed, that the site is acceptable in flood risk terms, notwithstanding the fact that there are sequentially preferable allocated sites in the adopted Local Plan.

In order for the Exceptions Test to be passed, it must be demonstrated that the proposed development will provide wider sustainability benefits to the community that outweigh flood risk, and that it will be safe for its lifetime, without increasing flood risk elsewhere and where possible reduce flood risk overall.

With regard to the above, the development would provide some wider sustainability benefits to the community through a contribution (albeit small) towards housing supply, and other benefits including generating employment during the construction period and its proximity to a range of services and facilities.

Setting finished floor levels at 300mm above existing ground level would mitigate against the risk identified and should ensure that the development is safe for its lifetime. Raising floor levels by this extent would not have a detrimental impact on the appearance of the property or adversely affect residential amenity.

In terms of drainage, the proposal is for surface water to be disposed of via soakaways. There are no known permeability issues in this area that would preclude the use of soakaways. No foul drainage details have been submitted so would need to be conditioned if permission were to be granted.

Given the above, the proposal (at this stage) is considered to be in accordance with Policies 2, 3 and 4 of the Local Plan with regard to their provisions on flood risk and drainage.

Planning balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The application site lies within the settlement boundary for Pinchbeck and the principle of residential development in this location is acceptable. Whilst this is an outline application with all matters reserved, it is considered that a scheme could be developed that would not materially harm the character or appearance of the locality or amenity of residents. There are no material highway issues and an acceptable level of parking provision would appear capable of being achieved. Flood risk and drainage matters are considered to have been appropriately addressed at this stage. Although the proposal does not strictly accord with the 'Private Drives - Waste Vehicle Collection Service' guidance note, the long-standing refuse/recycling collection arrangements of the other existing surrounding properties are an important consideration and the proposed kerbside collection is considered acceptable in this context.

Taking the above into account, the planning balance is considered to be in favour of the proposal.

CONCLUSION

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

For the reasons above, this application is considered to accord with Policies 1, 2, 3, 4, 10, 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019) as well as Sections 2, 5, 11, 12, 14, 15 and 16 of National Planning Policy Framework (2021).

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.

RECOMMENDATION

That the application be approved under delegated powers.

N.B. The application was presented to Chairman's Panel on 23rd December 2021 and members were content that the application be dealt with under delegated powers.