

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0061-22 **Applicant:** Market Homes Ltd
Proposal: Erection of 2 detached dwellings
Location: Land At Former Halmer Grange Grange Drive Spalding
Terminal Date: 21st March 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2021**

Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	1	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	1	0
RESIDENTS	6	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the erection of 2 dwellings on land at the former Halmer Grange, Grange Drive, Spalding.

The proposal is for two 3-bed detached dwellings which would be accessed off Grange Drive via a shared access with the existing flats. All habitable rooms would be at first and second floor, with garage, utility, store and shower rooms at ground floor. Additional parking would be provided to the front of the dwellings, with generous gardens to the rear.

Site Description

The site is part of the grounds of Grange Court, a building which has recently been converted from a former care home (Halmer Grange) to 17 flats under planning permission H16-1083-13, which was allowed on appeal. The application site is now a considerably overgrown area of land, which is currently fenced off. There are dwellings to the north and east (both bungalows and houses) and Grange Court itself to the west. Spalding High School's playing field is located to the south.

History

H16-1107-18 - Full - Erection of three dwellings (refused December 2018)

H16-1023-16 - Full - Proposed six houses (dismissed on appeal May 2017)

H16-0583-16 - Full - Erection of six dwellings (refused August 2016)

H16-1083-13 - Full - Proposed conversion of existing residential care home to residential flats (allowed on appeal August 2015)

Consultation Responses

Lord Porter - Objects referring to grounds of previous refusal. Site is being disaggregated in an attempt to overcome the initial objections to convert the Grange.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. This proposal is for the erection of 2 detached dwellings, the existing access arrangements meets the guidelines as set out in Manual for streets and adequate provision for car parking is proposed within the limits of the site, therefore it is considered that the proposals would not result in an unacceptable impact upon highway safety.

SHDC Environmental Protection (contaminated land) - No comments or objections.

Environment Agency - No objection subject to the development being carried out in accordance with the recommendations of the submitted flood risk assessment.

Public (6 objections/comments received, summarised) -

- Concern regarding size and height of proposed properties
- Access road not wide enough/unsuitable
- Increase pressure on existing parking
- Drainage not satisfactory

- Noise from additional vehicles and construction period
- More people will mean more rubbish
- Overlooking
- Boundary of 23 Grange Drive is the chain link fence rather than as the fencing indicated in the plans
- Concern re spread of existing plants on site to neighbouring gardens
- Query regarding foul drainage and future maintenance
- Existing flats have to pay for a private refuse collector as local authority will not collect
- Concern re mud on private roadway during construction
- Will new owners be obliged to maintain the private roadway and tarmacadam?

Public (1 comment in support received, summarised) -

- Will be a positive contribution to area as land is disused and unsightly

Planning Considerations

Principle

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 site is located within the settlement boundary for Spalding, as set out in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the SELLP indicates that within Sub-Regional Centres, such as Spalding, development will be permitted that supports their role as a centre of this scale. The policy provides no specific indication as to exactly what this entails, but it can be inferred that Spalding will be a focus for future growth and housing delivery. The site is therefore considered to be suitable in locational terms.

Layout, Scale and Appearance

The proposal is for 2 x 3-bed, 2.5 storey, detached dwellings with no habitable rooms at ground floor to address flood risk. The dwellings would be of a similar height to Grange Court and occupy a similar footprint to neighbouring dwellings. They are in keeping with other development in the vicinity in design terms. No details of materials, landscaping or boundary treatment have been submitted but this can be conditioned. Given that it is effectively backland development, the proposal would not have a material impact on the wider street scene.

Overall the proposal is considered to be acceptable in terms of layout, scale and appearance and therefore accords with Policies 2 and 3 of the Local Plan. Policy 2 of the Local Plan requires development proposals to take into account sustainable development considerations such as: quality of design; and size, scale, layout, density, impact on character and appearance of the area and the relationship to existing development. Policy 3 requires development proposals to respect the density, scale and massing of neighbouring buildings and the landscape character of the location.

Highway Safety and Parking

The Highway Authority have not objected to the proposal, thus it is considered acceptable on highway safety grounds. Accordingly, the proposal satisfactorily complies with Policy 2 of the Local Plan which requires it to be demonstrated that access and vehicle generation levels will be acceptable.

With regard to parking provision, Appendix 6 of the Local Plan sets out minimum parking standards (vehicle and cycle) for new developments. This sets out a requirement for 2 vehicle parking spaces for dwellings with up to 3 bedrooms. The proposal complies with this requirement.

Private drives

The Council do not currently collect refuse and recycling from the adjacent flats by virtue of the fact that they are located on a private drive. The proposed dwellings would also be located on this private drive.

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."

In the context of this application, the distance from the curtilage of any dwelling to the public highway far exceeds the 30m carrying distance set out above. It would also not be appropriate in amenity terms for occupants of these dwellings to be depositing refuse and recycling sacks outside unrelated properties which do front the public highway. In addition, it is highly unlikely that the application site would be considered a suitable candidate by the Waste Services department for an

indemnity to be entered into for the Council to collect from the property.

On this basis, officers are of the view that the proposed waste collection arrangements do not satisfactorily comply with the hierarchy and considerations outlined above. It therefore does not accord with Policy 3 of the South East Lincolnshire Local Plan (2019), which amongst other things states design which is inappropriate to the local area will not be acceptable and Paragraph 134 of the National Planning Policy Framework, 2021, which states development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design contained in the National Design Guide and National Model Design Code.

Residential amenity

This application site has been the subject of three previous applications for residential development (H16-0583-16, H16-1023-16 and H16-1107-18). The first two applications (for six dwellings) were refused, with one of the refusal reasons being: 'the proposed development would have significantly adverse impacts on the amenities of occupiers of the associated block of flats and existing and future occupants of nearby properties by virtue of unacceptable levels of noise and disturbance associated with increased vehicular/pedestrian movements as a consequence of the proposed density of development, the restricted access to the site, and insufficient and poorly laid out on-site parking provision and amenity space for the block of flats which would be irrevocable'. The third application (for three dwellings) had a similar refusal reason: 'The proposed development would represent an over intensive form of development that would generate an unacceptable cumulative level of noise and disturbance and would negatively affect the outlook of existing and future residents to such an extent that their living conditions would be unacceptably harmed. This is by virtue of increased vehicular/pedestrian movements as a consequence of the proposed density of development, the restricted access to the site and the relationship between plots 2 and 3 and the existing block of flats which would offer a poor front facing outlook.'

Application ref. H16-1023-16 was dismissed on appeal on 16th May 2017. The Inspector concluded that 'the proposal would result in an over intensive form of development that would generate an unacceptable cumulative level of noise and disturbance and would negatively affect the outlook of existing and future residents to such an extent that their living conditions would be unacceptably harmed'.

The key point to consider in respect of this application therefore is whether a reduction in the number of proposed dwellings from 3 to 2 is sufficient to overcome the previous refusal reasons. In this context, it is considered that a point made by the Inspector with regard to application ref. H16-1023-16 still applies. In paragraph 5 of the appeal decision, the Inspector stated that 'not only would there be an increase in the number of vehicular and pedestrian movements taking place across the site, the source of the noise would be spread across its full extent rather than being focussed in the flats and associated parking areas. The dwellings would introduce a different type of noise and activity with the potential for families living within the site.' This application is no different in that development, and therefore noise, would be spread across the full extent of the site. The access, whilst LCC Highways have no objections, would still remain the focal point for all movement through the site and the additional two dwellings would generate travel movements over and above the current flats. These movements will all impact upon the occupiers of the flats and upon immediate neighbours (in particular those either side of the access off Grange Drive) and will intensify activity and disturbance on an area of land where there is already a high level of development. Although the additional movements and activity associated with the dwellings may not be considered significant in their own right, when added to what is already in existence the cumulative impact would be significant. It is therefore still considered that the proposal would create a detrimental impact upon the residential amenity of the adjacent occupiers.

In terms of overlooking, no side facing windows are proposed so there would be no overlooking impact to the occupants of Grange Court or dwellings to the east. There is an approx. 19m separation distance to the boundary to the north and a minimum of 34m to the rear elevation of any dwelling on Grange Drive, which is a satisfactory distance in planning terms to ensure no material overlooking or loss of light. There is a school playing field to the south, but the amenity aspect of dwellings in this proximity would have been considered when the original application for the conversion of Grange Court was being assessed and was accordingly not determined to be an issue.

There is over 12m separation distance to facing windows to the west. The dwelling to the east does not appear to have side facing windows, although there is a conservatory to the rear of the property

approx. 6m away. The dwelling to plot 2 is set forward of the rear elevation of that dwelling, with approx. 3.5m projecting beyond the rear elevation. Given that and the fact that the rear garden of the neighbouring property is large, it is not considered that there would be a material overbearing impact.

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 site is located within Environment Agency Flood Zone 3a and the South East Lincolnshire Strategic Flood Risk Assessment (March 2017) (SFRA) identifies the worst case scenario for the site as 'danger for all' in terms of flood hazard with predicted flood depths of over 2.0m.

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 Spalding. 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.

It is accepted that the development would provide some wider sustainability benefits to the community through its ability to help meet the housing need (albeit a small contribution), and other benefits including generating employment during the construction period. However, as it has already been highlighted, the proposed development would have an unacceptable impact on residential amenity and this is a matter which is considered to outweigh the aforementioned benefits. Therefore the Exceptions Test is not passed in this instance.

Given the above, the proposal is considered to be contrary to Policies 2, 3 and 4 of the Local Plan in so far as they relate to flood risk.

In terms of drainage, the proposal is for surface water to be disposed of via soakaway and for foul water to be disposed of via mains sewer. There are no known permeability issues in this area that would preclude the use of soakaways and Anglian Water are obligated to accept foul water flows from new development.

Other considerations

One objector raises that the boundary of 23 Grange Drive is the chain link fence rather than as the fencing indicated in the plans. Given the recommendation for the application, this matter has not been explored further at this stage.

Concern has been raised regarding the spread of existing plants on site to neighbouring gardens, however this is a civil matter between landowners and not one for the planning process.

If permission were to be granted, a condition to secure details of how mud on the private roadway during construction would be satisfactorily addressed could be added.

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 Spalding and the principle of residential development in this location is acceptable. It is not considered that the proposal would materially harm the character or appearance of the locality, there are no material highway issues and parking levels are in accordance with the Local Plan requirements. Surface water drainage can be satisfactorily dealt with by means of condition.

Notwithstanding the above, it is considered that the vehicle movements associated with the proposed dwellings will impact upon the occupiers of the flats and upon immediate neighbours (in particular those either side of the access off Grange Drive) and will intensify activity and disturbance on an area of land where there is already a high level of development. Although the additional movements and activity associated with the dwellings may not be considered significant in their own right, when added to what is already in existence the cumulative impact would be significant. It is therefore still considered that the proposal would create a detrimental impact upon the residential amenity of the adjacent occupiers.

Furthermore, the proposal does not satisfactorily accord with the Council's guidance note 'Private Drives - Waste Vehicle Collection Service' and it does not pass the flood risk Exception Test.

These matters are considered to outweigh those in favour of the proposal, and the overall planning balance lies against the proposal.

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 the above into account, it is considered that the proposed development would be contrary to Policies 2 and 3 and 4 of the South East Lincolnshire Local Plan 2019 and Sections 12 and 14 of the National Planning Policy Framework, 2021.

The recommendation is therefore for a delegated refusal.