DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0270-20**	**Applicant:**	**Mr S Roose**
Proposal:	Residential Development - Erection of one dwelling		
Location:	Adj. 6 Banbury Close Spalding Lincs		
Terminal Date:	20th November 2020		

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
07	Improving South East Lincolnshire's Employment Land Portfolio
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Section 5 - Delivering a sufficient supply of homes
Section 6 - Building a strong, competitive economy
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
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SPALDING AND DISTRICT CIVIC SOCIETY	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	1	0	0	1
RESIDENTS	2	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the erection of one dwelling adjacent to 6 Banbury Close, Spalding.

Site Description

The application site is located within what was originally a cul-de-sac development but which has since been extended northwards with the construction of new dwellings on a former builders yard.

The site currently accommodates a modest sized metal shed formerly used by a flower business, which is adjoined by hardstanding.

Existing properties on Banbury Close are predominantly of circa 1970s/80s design, with the exception of no. 8 which was built mid-late 2000s. As previously mentioned, there are also new build properties which are located to the east and north/north-west of the application site (Bentley Court).

History

H16-0757-98 - Full application for a replacement building (approved October 1998)

H16-0440-94 - Full application for change of use and conversion from storage shed to office accommodation (approved June 1994)

Consultation Responses

Pedals - The application fails to comply with Policy 36 of the Local Plan because no facilities are proposed for the storage of bicycles.

LCC Highways/SUDS - Does not wish to restrict the grant of permission.

SHDC Economic Development - No observations.

SHDC Environmental Protection (Noise) - Makes reference to historical complaints received regarding vehicle movements at unsocial hours but confirms nothing recently received.

SHDC Environmental Protection (Contaminated Land) - Requests the full land contamination condition.

Spalding and District Civic Society - The shed as it stands is now incongruous, and we approve of its demolition. The proposed building may impinge on the daylight reaching houses 9 & 10 behind; it

will be up to the neighbours there to approve or object.

Environment Agency - Proposal comes under cell D8 of the Standing Advice Matrix and, as such, it is not necessary to consult the EA.

Public (4 objections/comments, summarised) -
- Concern re impact on trees on adjacent land. Concern re drainage and privacy if tree subsequently has to be removed
- Overlooking
- Not very much recreational space for properties with three bedroom
- Concern re parking arrangements for visitors
- One dwelling would be more suited to the site
- Overbearing effect on rear garden of existing adjacent property
- Boundary fencing should have continuity from existing fencing bordering existing properties
- Concern re capacity of existing sewerage system
- Increase in noise from traffic and construction work
- Application form states that the application is for 2 x 2 bed dwellings but the plans show they are 3 bed

It should be noted that all resident objections were received prior to the scheme being amended to a single dwelling. Re-consultation was carried out but no further responses were received.

Planning Considerations

- Principle
- Layout, Scale and Appearance
- Highway Safety and Parking
- Residential Amenity
- Flood Risk and Drainage
- Other 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.

The site is currently classed as being in employment use in planning terms on the basis of a 1998 permission (H16-1757-98) restricting the use of the building to B1 (light industrial). Policy 7 (Improving South East Lincolnshire's Employment Land Portfolio) of the SELLP therefore applies. This policy sets out 3 criteria against which proposals which relate to the loss of non-allocated employment sites to non-employment uses will be judged. These are as follows:
1. whether the loss of land or buildings would adversely affect the economic growth and employment opportunities in the area the site or building would likely serve;
2. whether it is demonstrated that the site is inappropriate or unviable for any employment use to continue and no longer capable of providing an acceptable location for employment purposes; and
3. whether the applicant has provided clear documentary evidence that the property and/or land has been appropriately but proportionately marketed without a successful conclusion for a period of not less than 12 months on terms that reflect the lawful use and condition of the premises.

With regard to the first criteria, it is not considered that the loss of the building and associated land would adversely affect economic growth and employment opportunities in the area. The site is small in scale, thus is not strategic, meaning its loss would not materially affect the ability to deliver the necessary jobs and employment land identified in Policy 7.

In terms of the second criteria, it has not been demonstrated that the site is inappropriate or unviable for any employment use to continue, however it is located within a residential area and

thus there is the potential for conflict between the employment and residential uses, albeit there is a condition restricting the use of the building to that which is compatible with residential properties.

The third criteria requires appropriate marketing of the building/site to have taken place in order to demonstrate that there is not a demand for such a premises. No such evidence has been submitted in support of the application.

Evidently, there is some conflict with Policy 7 of the SELLP. However, it is considered that a pragmatic approach is required in this instance. Notwithstanding that the relevant planning permission allows for uses which are compatible with residential properties, it is still preferable that such uses are not sited together. SHDC Environmental Protection have advised that a small number of historical complaints were received regarding vehicle movements at unsocial hours. Although no complaints have been received in recent times regarding the operations of the former occupier, there is no certainty that any future occupier (if the building was to remain and be let) would not cause issues. This would appear to be a good opportunity to remove the possibility of any future conflict. Furthermore, colleagues in the Economic Development team have raised no objections. Therefore, on balance, the loss of this employment use is considered to be acceptable.

Layout, Scale and Appearance

The application as submitted was for two dwellings, however this would have resulted in an unacceptable cramped form of development with little external amenity space for occupants. Consequently, the application has been amended and now permission is sought for a single dwelling.

The proposed dwelling is not outstanding in terms of design, but in the context of the dwellings it will sit alongside (the standard 'Allison' type properties on Banbury Close) it is considered acceptable. It would also be similar in appearance to 8 Banbury Close to the south.

Floor levels would be raised by 1m due to flood risk, however the properties off Bentley Court are also raised by this amount so it would not be out-of-keeping with existing development in this regard.

Given how the site relates to existing properties surrounding it, it is appreciated that there is limited scope when it comes to layout and ensuring an appropriate form of development in terms of visual appearance and residential amenity (discussed further below). A pragmatic view therefore needs to be taken, particularly given that it would result in the removal of what is effectively an industrial type shed in a residential area. The layout of appearance of the proposed development would not be such that it would have a material adverse impact on the character and appearance of the area.

No details of materials, landscaping or boundary treatment have been submitted but this can be conditioned.

Overall the proposal is, on balance, 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 Highways Authority have not objected to the proposal and so it is considered acceptable in terms of highway safety. The proposal is therefore in accordance 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 and for 1 cycle parking space within each residential plot.

The proposed development complies with the specified parking standards but no cycle parking provision has been shown. The latter can be addressed by means of condition.

Residential Amenity

Concern has been raised regarding potential overlooking as a result of the development. The only window on the rear (eastern) elevation would be high level and there would be an approx. 21m separation distance between the northern elevation of the proposed dwelling and the property on Bentley Court. The front of the proposed dwelling would face towards 5 Banbury Close but there are no side facing windows on that property and any view of the front windows would be at an angle, thereby making overlooking difficult. There are four windows on the southern side elevation. One would be high level and two would belong to non-habitable rooms so there would be no overlooking issues in respect of these windows. The remaining window on this side is a side window to the lounge and is proposed in order to provide security ('natural surveillance') of the vehicle parking spaces for the property. It has been noted that there is a bedroom window at first floor in the neighbouring property. Given the separation distance (approx. 9m) and the fact that it is a ground floor-first floor relationship and the proposed dwelling would effectively be angled slightly away from the neighbouring property, it is not considered that it would have a material adverse overlooking impact.

It is noted that the rear garden of the proposed dwelling is overlooked by properties on two sides, however there is a minimum 7m distance from existing properties to the site boundary and it would be a similar situation to overlooking which results when houses turn a corner and have windows at first floor. It is therefore not considered that this would be a defendable reason for refusal.

The distances between the proposed dwelling and existing properties (e.g. 10m+ plus where there is a front-side relationship) is such that there would not be a material adverse impact on terms of loss of light or overbearingness.

Due to the need to raise floor levels due to flood risk, boundary treatments will need to be carefully considered. This can be dealt with by means of a condition.

Noise during the construction period is a consideration, however it is one that carries limited weight in the planning balance and this is an issue which is covered by separate environmental legislation.

Overall, there are not considered to be any significant or demonstrable adverse impacts relating to residential amenity that would warrant refusal of this proposal. The proposal is considered to accord with Policies 2, 3 and 30 of the Local Plan in respect of their provisions on residential amenity.

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) shows that the site falls within the 'danger for most' hazard zone, with predicted flood depths of up to 1 metre.

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.

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. It would also remove a potentially conflicting employment use from a residential area.

Finished floor levels would be set at 1m above existing ground level with 300mm of flood resilient construction above finished floor level. Taking into account the predicted flood depths previously identified, this should ensure that the development is safe for its lifetime.

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.

Given the above, the proposal is considered to be in accordance with Policies 2, 3, 4 and 30 of the Local Plan with regard to their provisions on flood risk, drainage and ground pollution.

Other Considerations

There is a large pine tree located on adjacent land and concern has been raised regarding the potential for the roots of this tree to be impacted by surface water from the site draining towards it. The applicant has indicated that they intend to dispose of surface water via a soakaway. Given the location of the site and knowledge of general ground conditions in Spalding, there is no reason to believe that a soakaway would not be an effective means for surface water disposal. The proposed dwelling is practically the same distance from the tree in the neighbouring garden as no. 8 Banbury Close, which has been built in the last 15 years and therefore has not been in place as long as said tree. It is therefore not considered that the proposed dwelling would cause any greater detriment to the tree than that property.

Concern regarding the capacity of the existing sewerage system is noted. However, Anglian Water are obligated to accept flows from new properties and this, in itself, is not sufficient reason for refusal of the application.

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, the proposal is considered to be in accordance with provisions contained within Policies 1, 2, 3, 4, 30 and Appendix 6 of the South East Lincolnshire Local Plan, 2019, and in general accordance with Policy 7. It also complies with guidance set out in the National Planning Policy Framework, 2019.

The recommendation therefore is for a delegated approval.