DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0352-20**	**Applicant:**	**Mr C Boz**
Proposal:	Proposed single storey residential dwelling		
Location:	147 Hawthorn Bank Spalding		
Terminal Date:	26th June 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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing

National Guidance

National Planning Policy Framework 2019

National Planning Policy Framework (2019)

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is an outline application for a proposed single storey, 3-bedroom dwelling on residential garden land to the rear of 147 Hawthorn Bank. The application has Access only to be considered, but the indicative plan shows an L-shaped dwelling with a detached garage, accessed adjacent to the driveway serving 147 Hawthorn Bank. Two parking spaces are indicated within the front garden of No. 147.

Site Description

The proposal site is within the defined settlement limits of the largest settlement in the District. The surrounding area is characterised by dwellings of varying ages and design.

The site is currently the rear garden area of 147 Hawthorn Bank, which is a detached bungalow in a run of detached dwellings, on the northern side of the road. As this is a domestic garden it is not considered to be previously developed land.

History

None.

Consultation Responses

SHDC Environmental Protection

No comments or objections.

Lincolnshire County Council Highways & SUDS Support

No observations.

Third Parties

The following representations were received from 2 households, as follows:

Comments/objections
- Impact of existing trees and bushes on neighbouring dwellings, causing loss of light, damp, damage to shed roofs and foundations.
- loss of views caused by existing trees/shrubs

No objection
- to the proposed single storey residential dwelling provided it does not block views and rights to light and air - as a condition of the planning permission, the applicant must remove/dispose of all the trees and shrubs which border the boundary and a fence or something similar is erected to separate and create a distance
- there should be no encroachment across neighbouring property
- hours of working should be controlled

Planning Considerations

Principle of development and character of area

The Council supports the provision of residential development however this proposal would have a greater impact on the area, which is given greater weight, in this instance. This is discussed below.

Paragraph 70 of the NPPF 2019 set out that

Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery

rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.

The Council has recently published an up to date (as at 31 March 2020) housing land supply of 9.3 year supply under the Liverpool method.

The SELLP does not contain a policy that specifically precludes the development of domestic gardens, and each application is considered on its merits and in the light of national and local policies. Recent decisions have been made within Spalding for single dwelling infill developments, however the circumstances differ and each application is to be considered on its merits.

No.147 is a detached bungalow on the northern side of Hawthorn Bank, and has a linear domestic garden, which is also a feature of the dwellings to the west. To the east of the site are a number of dwellings facing Hawthorn Bank and Tavistock Road, that sit on smaller dwelling plots, and have road frontages.

Whilst existing properties vary in their size and design in this part of Spalding, there is consistency in that they follow established building lines and generally have a presence within the streetscene, which creates a strong pattern and grain of development.

The site sits behind the existing bungalow at No.147. As a consequence, the proposal would introduce a dwelling within the backland area between the properties to the east and west, which, with the exception of small, ancillary domestic buildings, is currently free from built back land or tandem form. This would be in marked contrast with the existing pattern of development.

In addition, the lack of street frontage that the dwelling would have, being largely screened from the public realm by the existing dwelling, would be out of character and incongruous with the form of the existing development.

It is considered that this proposal would be out of character with the prevailing form of development in this part of Hawthorn Bank, by reason of its location. It is therefore considered that the development would be contrary to Policies 2 and 3 of the SELLP and the provisions of the NPPF 2019.

Impact on host dwelling

The access road for this proposal would run the length of No.147 as well as the amenity/rear garden area of this property. No.147 has a window in the existing eastern side elevation, which serves a habitable room. This room and the garden area would be detrimentally impacted by the access road, and would have a reduced residential amenity, by reason of noise and disturbance. It is therefore considered that the development would be contrary to Policy 3 of the SELLP and the provisions of the NPPF 2019.

Impact on Neighbouring Residents

The application is in outline with access only to be considered. Any detailed proposal would need to take into account the various dwellings in close proximity, some of which have windows facing and overlooking this back garden site.

Highway Matters

No objection has been received from LCC and the highway access is considered to be acceptable.

Landscaping

The concerns raised relate to the existing boundary treatments on the site, which seem to have become over grown. These matters could be addressed at a detailed stage. In addition, High Hedges legislation exists to deal with certain types of hedging and this sits outside planning legislation.

An objection has been received citing right to light and obstruction of views. The former matter is

covered by separate legislation, however the issue of the overall impact on light is addressed above.

There is no right to a view under planning legislation and law, and this can be given little weight.

Conclusion

For the reasons set out above it is considered that planning permission should be refused, as the development would be contrary to Policies 2 and 3 of the SELLP and the guidance within the NPPF 2019.

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.