DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0453-24**	**Applicant:**	**Ms Homer**
Proposal:	Replace boundary fence with brick wall		
Location:	Cromwell House 65 Double Street Spalding		
Terminal Date:	29th July 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
29	The Historic Environment

National Guidance

National Planning Policy Framework 2023

Sections 12 and 16 of the National Planning Policy Framework (December 2023) (NPPF)

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This Listed Building Consent application is for the replacement of a timber boundary fence with a brick wall.

Site Description

Cromwell House is a Grade II listed property. Historic England describes it like so;

"*Early C18 origin. 2 storeys in brick with pantile roof with 1 gabled dormer. 3 windows, no glazing bars. 2 windows on ground floor, segmental arches. Door of 6 panels beneath rectangular fanlight in moulded surround with cornice.*

The site is set within the highly prominent riverfront portion of the Spalding Conservation Area. The setting is characterised by a mix of C18th and 19th domestic properties, which includes the adjacent Grade II 63 Double Street and 13A Double Street as well as the nearby Grade II The Sycamores and The Limes.*

History

H16-0680-06

Erect semi-detached house to replace existing garage. Approved on 14-11-06

H16-0681-06

Erect semi-detached house to replace existing garage. Approved on 14-11-06

H16-0491-11

Demolish existing garage and erect semi-detached house. Approved on 19-10-11

H16-0492-11

Demolish existing garage and erect semi-detached house. Approved on 19-10-11

H16-0409-14

Erect semi-detached house to replace existing garage and replace window with door in existing house and new boundary walls to rear. Notice of No Further Action issued on 07-10-16

H16-0533-22

Erection of Fencing - Retrospective. Approved on 28-07-22.

H16-0537-22

Demolition of garage and cladding to utility room - retrospective. Approved on 28-07-22.

Consultation Responses

Lincolnshire County Council Historic Places Team

Thank you for consulting us on this proposal.

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on any archaeological remains.

Consequently, no further archaeological input is necessary for this application.

Regarding any potential impacts to the standing listed building, I defer comments to the SHDC

Conservation Officer

South Holland IDB

Proposal is not within the catchment area.

Environment Agency

No objections.

Lincolnshire County Council as Lead Local Highways and Flood Authority

The proposal is to replace the boundary fence with brick wall, it will be in same location and be virtually the same height. The proposal will not have any impact on the public highway. No Objections

Planning Considerations

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, NPPF are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Local Planning Authorities are also required to be mindful of their duty in determining matters in respect of Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority to:

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 16).

The objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. Beyond this, where harm would be caused, there is a necessity to establish the extent of that harm, and consider this within the policy context.

Heritage Impact

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which they possess.

Sections 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess as well as the desirability of preserving or enhancing the character or appearance of conservation areas. Any adverse effect on a heritage asset, even if slight or minor, would not preserve the asset or its setting.

Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (December 2023) (NPPF). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (December 2023) states that "When

considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Finally, Policy 29 of the South East Lincolnshire Local Plan (2019) (SELLP) confirms that in order to respect South Holland's historical legacy all proposals shall conserve and enhance the character and appearance of designated heritage assets. Additionally, Section A of that policy confirms that proposals that affect the setting of a Listed Building will only be supported where they preserve or better reveal the significance of the Listed Building, and that proposals that seek to alter a listed building shall be granted where the LPA is satisfied that the proposal is in the interest of the building's preservation and does not involve alterations that are prejudicial to the special architectural or historic interest of the Listed Building or its setting. Moreover, as the site is also in a prominent conservation area position, it is vitally important to assess the proposal in accordance with the expectations established under policy for development within that setting. Section B of Policy 29, governing Conservation areas states that Proposals within, affecting the setting of, or affecting views into or out of, a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting.

In this instance, the local planning authority considers that contingent upon the careful application of conditions governing materials, the proposal will place neither the listed building, nor the wider conservation area at risk as designated heritage assets. At present, the site is treated with a fairly unremarkable timber close boarded fence. The application proposes to erect a more traditional brick wall, of an equal height, which would utilise brickwork to match the historic house. In this instance, the Local Planning Authority considers these materials of construction to be more period appropriate to the setting, and as such, the proposal marks a minor improvement of the site over the extant condition. For this reason, the application is considered to pass all of the relevant tests laid out by the Local Plan and the NPPF, as described above.

Residential Amenity

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposal seeks only to replace an existing 1.7m fence with a wall of a height only a single mm taller. The application seeks no other alterations, nor does it propose the creation of any additional window/door openings or any raised platforms. Because of this, the proposal cannot be considered to present any enhanced material risk of harming local residential amenity by means of overlooking or overshadowing.

Highways Impact

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of

up to three bedrooms and three spaces for dwellings with four or more bedrooms.

In this instance, the Local Highways Authority were consulted and found no reason to object, as the height of the proposed wall will be the same as existing including the gates that will be retained and therefore, it does not have an impact on the Public Highway.

Additionally, this application does not in any way alter the amount of parking space available to the property, meaning that the site retains parking enough for at least 2 vehicles, remaining in accordance with Policy 36 and Appendix 6 of the SELLP.

Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3, 29, 36 and Appendix 6 of the SELLP as well as Sections 12 and 16 of the NPPF. Therefore, the recommendation is to approve.

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.