DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0523-22**	**Applicant:**	**Scenic Homes Ltd.**
Proposal:	Residential Development - 12 one bedroom apartments		
Location:	Land Off Roman Bank Spalding		
Terminal Date:	7th July 2023		

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
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
18	Affordable Housing
28	The Natural Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

National Planning Policy Framework 2021

Section 2: Achieving sustainable development Section 4: Decision making
Section 5: Delivering a sufficient supply of homes Section 9: Promoting sustainable transport
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

Representations:

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

HISTORIC ENVIRONMENT OFFICER				
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	3
OTHER STATUTORY BODIES	1	0	0	3

CASE OFFICER ASSESSMENT

Proposal

The application seeks full planning permission for the erection of 12 one bedroom apartments together with associated parking and amenity space. The proposal is for 3 storeys. The design shows a three storey block, in the same position as previous approvals with central gables front and rear. Juliet balconies are shown on the north-west elevations.

This is a re-submission of H16-1062-17 which was granted planning permission on 3rd August 2018 for residential development of 12 one-bedroom apartments.

This follows on from a previous reserved matters approval H16-1031-07 which was for the residential development of 18 flats and associated works approved on 25 September 2007, related to the outline reference H16-0411-05.
The flats were arranged with 6 flats at the front and 12 flats at the rear of the site.
The 6 flats at the front has since been implemented. This is therefore an extant permission with a lawful start.

Viability information has been submitted in association with this application to assert that the scheme is not viable to provide any contributions or provide for affordable housing.

Site Description

The application site lies to the north-eastern side of Spalding near to the town centre, between Roman Bank and the adjacent River Welland, well within the Defined Settlement Limit.

The town centre benefits from local facilities such as schools, medical/dental facilities, convenience stores, restaurants, a post office and sources of employment. The prevalence of facilities are reflected in Spalding's position at the top of the settlement hierarchy as per the South East Lincolnshire Local Plan 2019.

The application site lies off Roman Bank, a side road off one of the main routes into Spalding. The proposed development will develop an unused area of scrub land. The site is relatively flat with little or no existing landscape features. This proposal seeks to amend the design of the previously approved scheme. The site sits in between 3 storey houses and 3 storey retirement homes at the rear of the site next to the River Welland. The element of the site fronting Roman Bank already has 6 apartments constructed as part of the previously approved scheme for 18 flats. This site sits behind those apartments. Three storey developments in this location are typical of the area.

History

H16-0411-05 - Outline - Redevelopment of Site for Residential - Approved 6 June 2005.

H16-0487-06 - Residential development comprising 8 dwellings (Outline application H16-0411-05) - Approved 10.07.06

H16-0538-07 - Residential development comprising 18 flats and associated works - Refused 09.07.07

H16-1031-07 - Residential development of 18 flats and associated works (outline H16-0411-05) - Approved - 25.09.07

H16-0179-08 - Details of Archaeological Report (Condition 5 of H16-0411-05) - Approved 04.03.08

H16-0303-08 - Details of Contaminated Land Study (Parts A, B and C of condition 7 of H16-0411-05) - Approved 7.7.08

H16-1651-07 - Details of Rainwater goods, external doors and window frames (Conditions 4, 6 and 7 of H16-1031-07).
-Approved 18.03.08

H16-0166-08 - Details of external illumination, existing and proposed site levels and means of enclosure
(Conditions 3, 10 and 11 of H16-1031-07) - Approved 18.3.08.

H16-1074-08 - Details of affordable housing (Condition 6 of H16-0411-05) - Undecided - decision due 5.12.08

H16-1062-17 - Residential development of 12 one-bedroom apartments. Approved 3.08.18

Consultation Responses

Lead Local Flood Authority and Local Highway Authority

The proposed development would utilise an existing vehicle access onto Roman Bank. The proposed development has previously received planning consent, in this form, under reference H16-1062-17. Therefore, having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety and does not wish to object to this planning application.

No objection. Suggest highway informative.

LCC Historic Environment Officer

The site has already been subject to an archaeological evaluation in 2007. This revealed that the site had been raised artificially during the post-medieval period, and no significant earlier remains were revealed to justify any further archaeological input being required. Therefore no objection.

Planning Considerations

The main issues in this case are:

- Viability and the resulting consequence that affordable housing and NHS contributions cannot be provided.

Principle

The principle of development has already been established by previous approvals, including H16-1031-07. The site is within a sustainable location within Spalding which is at the top of the settlement hierarchy and as such there is no conflict with Policy 1 of the SELLP.

Scale, Layout and Design

Policies 2 and 3 of the SELLP relate to design, scale and layout amongst other things.

The scale of the proposal at 3 storeys, is the same as previous approvals. Neighbouring properties on adjacent plots are at 3 storey and therefore the scale of the proposals is not considered to be unacceptable.

The layout is the same as in the previous approval by having the development at the rear of the plot in the same position as approved under H16-1031-07. The car parking spaces are also in the same position. It is not considered that there are fundamental issues with the layout as a result.

The design of the proposal differs very slightly from the previous approval in that in the earlier design, only one elevation incorporated front gables. The current proposal has front gables on both the South East Elevation, and the North West Elevation. The gables are highlighted with Black horizontal boarding at 2nd and 3rd storey level, together with red multi-facing brickwork. This change to the design is considered to be an improvement in design terms and will add to the character of the development. The Juliet balconies are still present on the South West Elevation and are considered acceptable in design terms as they were in the previous approval. The design of the proposals are considered acceptable.
The proposal would not be out of keeping or out of character in the street scene.

It is not considered that the proposals are unacceptable in design terms and do not conflict with Policies 2 and 3 of the SELLP in this respect.

Amenity

Policies 2 and 3 relate to the impact on residential amenity amongst other things.

The proposal is in the same position as previously approved and as a result it is not expected to adversely affect residential amenity. The change to the design of the projecting gables are centrally located and as a result would not result in loss of amenity to nearby properties. In addition this is an urban environment where taller buildings are expected to occur.

It is concluded that there is no conflict with Policies 2 and 3 in relation to the SELLP, 2019.

Viability

The key consideration in this case relates to viability. In the previous approval for 12 flats under reference H16-1062-17, SHDC's Housing Strategy Team initially required 33% of the development to be provided as affordable housing to meet district wide housing needs. It was recognised at the time of the decision the impending adoption of the current Local Plan where the policy requirement was 25% affordable housing. 3 units were initially requested as affordable rented homes. The developer submitted viability evidence which was assessed by an independent viability expert to demonstrate that the provision of 33% affordable housing on the scheme was not viable. The independent viability expert concluded that the scheme could not viably support any affordable housing contribution (on or off site). This evidence also noted that an NHS contribution should not be sought for viability reasons. SHDC's Housing Strategy Team accepted that no affordable housing could be provided as a result.

During the consideration of the current application, a more up to date viability assessment was undertaken, which again looked at whether or not affordable housing or other contributions such as the NHS contributions were viable.

The Council's independent viability expert concluded in December 2022 that the scheme could only support a limited viability contribution. An updated appraisal was then submitted by the applicant, dated 16th March 2023, which included various more detailed changes to the appraisal assumptions, including increased abnormal costs. These included piled foundations, ring beam installation, site clearance, enabling works, contamination, water connection into the river and surface water attenuation. This information was not in as much detail as the initial appraisal. The second appraisal by the Council's independent viability expert appraised the additional abnormal costs and compared it to the assumptions made at the time of the December 2022 assessment.

Guidance associated with viability says that in the first instance if abnormal costs increase then the benchmark land value should be reduced. However, this can only be pushed so far. If too low, it does not provide an incentive for a landowner to release the site for development. The increase in abnormal costs was compared with the December 2022 assessment. The Council's independent assessor stated that the initial calculated surplus that could have been used as a limited S106

contribution (for example for a Health contribution) could now no longer be provided. The costs have been verified and it is therefore concluded that there is an unviable outcome, with no surplus for S106 contributions or affordable housing at all.

Whilst it is recognised that the normal policy requirement for developments such as this should provide 25% affordable housing, and that the NHS requested a contribution towards health, in this instance it is not considered reasonable to insist upon requiring affordable housing or a health contribution given that the viability information has been independently checked. The viability information provides sufficient evidence to allow an exception to normal policy requirements.

Highway Safety

Policy 36 of the SELLP states that all new development should provide vehicle and cycle parking in accordance with the minimum Parking Standards adopted by the Local Planning Authority (Appendix 6).

The development would not affect the existing access which would remain unchanged. There would be no significant impact on highway safety. Car parking for 12 cars is in line with Appendix 6 of the SELLP.

The Local Highway Authority raise no objection to the scheme.

One objector states that the proposals contain no cycle parking which is contrary to the SELLP which requires one space per unit. There is limited space within the boundary to provide cycle parking, but the conflict with the Local Plan is a valid point. A condition is suggested to address this concern so that the flats can incorporate cycle parking, even if it is a mixture of wall mounted cycle racks or vertically stored cycle storage systems which are possible in very limited spaces.

Subject to the condition it is considered that the proposal does not conflict with Policy 36 or Appendix 6 of the SELLP.

Flood Risk

Policy 4 of the SELLP relates to the approach to flood risk and details how development proposals will be determined, including sequential testing and other relevant considerations.

The whole of the Windmill Court site is between Roman Bank and the eastern bank of the River Welland. The existing building (6 flats) is alongside Roman Bank. The level of Roman Bank in front of the property is 4.10m OD and the level of the parking area behind the building is approximately 4.45m OD. The ground floor level of the building is 4.75m OD. The rear area where the new building is proposed is fenced off and overgrown. The level is similar to the parking area and can be assumed to be approximately 4.50m OD.

The site is within Flood Zone 3 (a) which indicates a high probability of flooding, and therefore Sequential and Exception tests are required. Given that all of the area between the River Welland and the Coronation Channel is in this flood zone, it would be difficult to find a similar site for development in Spalding that is in a lower flood zone. The safety of the development can be ensured by making finished floor levels above the predicted residual flood levels for the area. In addition, the SELLP encourages development in the town centre for sustainability reasons and Paragraph 119 of the NPPF states that decisions should promote an effective use of land in meeting the need for homes. Therefore it is considered the Sequential Test is passed.

The proposed development is not in a functional flood plain as defined by PPS 25. Although the site is in flood zone 3(a), the actual risk of flooding from any Environment Agency water course is low.

There is no flood risk at the present time in a 1 in 1000 year event.

There is a risk of defences being overtopped in a 1 in 1000 year event in 2115. Flood defences are likely to be improved over the next 100 years to mitigate for this, given Spalding is a town.

The SFRA states there is a residual risk that the site could flood if a breach occurs in the tidal defences. Although the risk of a breach occurring is very low, it can be shown that if a breach 50 metres wide and 3.0 metres deep is assumed to form within minutes, then water levels in the area between the River Welland and the Coronation Channel could eventually reach 5.30m OD. When

the flood level reaches 5.00m OD in the area flood water will begin to flow back into the fluvial River Welland preventing the flood level increasing above a level of between 5.20m and 5.30m OD.

It is recommended that the ground floor level of the proposed building should be at a level of 5.20m OD which is 300mm above the predicted flood level of 4.90m OD agreed by the Environment Agency. Demountable defences should be installed at all ground floor door openings and these should be 600mm above the finished ground floor level. The buildings should be designed to incorporate flood resistant and resilient techniques to allow it to be refurbished after being flooded to a depth of approximately 600mm above the floor level of the new building. The developer should advise owners and occupiers of the properties to register with the Environment Agency's Floodline Warnings Direct Service.

In terms of the Exception Test, it is considered that developing this area of scrubland provides wider sustainability benefits to the community by providing housing that outweighs flood risk. The Site Specific Flood Risk Assessment demonstrates that, subject to conditions, the development will be safe for its lifetime taking into account the vulnerability of its users, which in this case are considered to be 'more vulnerable'. The Exception Test is therefore considered to be passed.

Subject to a suitably worded condition it is considered that the proposal does not conflict with Policy 4 of the SELLP.

Foul and Surface Water Drainage

Surface water will be disposed of into the existing water course. The IDB made no comment. Anglian water noted an adoption agreement will be required with them. In terms of waste water, it noted the development is in the catchment of the Spalding Recycling Centre that will have capacity for these flows.

Foul water is to be disposed of in the public sewer. A feasible drainage strategy has been agreed with Anglian Water with a discharge rate of 3.8l/s.

Neither body raise an objection to these details and as a result it is considered these details are satisfactory.

Biodiversity

Section 15 of the National Planning Policy Framework (NPPF) seeks to provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. Policy 28 of the SELLP seeks to promote biodiversity net gain and incorporate biodiversity conservation features.

A condition is suggested to ensure that 6 swift bricks are incorporated into the building fabric to benefit biodiversity. In addition a condition relating to a landscaping scheme is suggested which could incorporate native species to benefit biodiversity.

Subject to the incorporation of the swift bricks it is considered that the scheme would not conflict with Policy 28 of the SELLP.

Planning Balance

Section 38 (c) 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. To determine whether the proposal accords with the Local Plan it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

In economic terms, future occupants of the flats may work locally, support local services and therefore make a contribution to the local economy. There would be short term economic benefits associated with the construction of the flats and long term benefits of increased spends associated with the households living in the locality. The economic benefits resulting from the proposal weigh in favour of the proposal.

In community terms, the proposal would make a contribution towards housing supply in the district. This aspect weighs in favour of the proposal. The fact that the proposal is not capable of providing

affordable housing or an NHS contribution due to viability reasons is negative in the planning balance. Overall then, in community terms, the balance is neutral in this respect due to the balancing of providing market housing whilst not providing affordable housing.

In environmental terms, the site is within the defined settlement boundary and the applicants propose to install swift bricks and have agreed to a condition relating to cycle parking and landscaping. The proposal is also located in a sustainable location and utilises a piece of scrub land. The design is an improvement compared with previous approvals on the site. These factors weigh in favour of the proposal in environmental terms.

Overall, whilst it is accepted that in community terms there are factors weighing both against and for the development, when considered with the economic and environmental benefits of the proposal, these cumulatively outweigh the harm of not providing affordable housing or NHS contributions in the overall planning balance, particularly given the planning history and as such, on balance, there is no material harm and no compelling reason to withhold planning permission.

Conclusion

The site has had a series of approvals for flats in this location which means the principle of development has been established. The site is not in an unsustainable location. The site will make a contribution to housing, incorporate biodiversity features and cycle parking, and bring an area of scrub land into use. Taking into account the overall planning balance, despite affordable housing and an NHS contribution not being possible, approval is recommended.

RECOMMENDATION

Approval subject to conditions.

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.