DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1083-24**	**Applicant:**	**Mr F Martins**
Proposal:	Proposed repositioning of garden wall		
Location:	17 Harveys Close Spalding		
Terminal Date:	18th February 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework December 2024

Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed places

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

CASE OFFICER ASSESSMENT

This is a full planning application seeking permission for the repositioning of a garden wall at 17 Harvey's Close. This would result in 1.8m high brick wall being demolished, and replaced with a 1m

high wall constructed of the same materials. This would result in an extension to the curtilage of 17 Harvey's Close to incorporate a gravelled area, also in their ownership.

Site Description

The site is within the settlement boundaries of Spalding outlined within the South East Lincolnshire Local Plan, 2019. The site is located along the bend of Harvey's Close. The area is distinctly residential in nature, primarily featuring two storey semi-detached dwellings. The wall is a bit of an oddity in the area, as the only example of a brick boundary treatment of this type.

The area to be extended into is a gravelled area to the front of the wall, adjacent to the property's garage. A streetlight is immediately adjacent.

Relevant History

H16-0328-03 - Full. Demolition of existing buildings and erection of 48 dwellings with associated garages. Approved 18/11/03.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

"ADDITIONAL INFORMATION REQUIRED We have concerns with the reduction in visibility - the 'x' distance is 2.4m and at that point you would not be able to see oncoming traffic or pedestrians. Due to the angle of driveway the visibility is not measured accurately. Pedestrian visibility should be 1.5m x 1.5m which cannot be achieved. We do not encourage the use of mirrors to aid visibility as they cannot be controlled or enforced. The location of the existing boundary treatment was erected in that position so as to provide the required visibility when the houses were built and to satisfy highway requirements. If the applicant would like to include this parcel of land within their garden the height of the proposed wall should be reduced to 0.6m. The proposal would also reduce visibility for the users of the other garage. We would be reluctant to support this proposal in its current form".

Environment Agency

"The proposal can be classified as 'minor development' in relation to flood risk and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. It was therefore not necessary to consult us."

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key 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, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable

development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as a sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within Spalding, development within this location is considered appropriate. In any event, the area to be extended into is in the ownership of the applicant, associated with the dwelling, and is of no significant community value.

Paragraph 104 of the NPPF states that development should not occur within open space unless, "an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements". Annex 2 of the NPPF defines "Open Space" as "All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity."

It is considered that the land is of no significant public value. The scale of the site means that it offers no functional use for sports or recreation. There would be no wider public benefits (e.g., benefits to nature, addressing the impacts of climate change etc) from maintaining this land under its previous use.

As such, the proposal is considered to be in accordance with the requirements of the SELLP when viewed in principle. This is subject to the assessment against site specific criteria; including (but not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and impact on highway safety, which are discussed in turn in the following sections.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require that design which is

inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

While the resultant wall would be somewhat unusual in design, it is not considered it would be harmful to the character or appearance of the area. The feature is considered appropriate given the existing built form of the area and the residential nature of the locale.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

While views could now be obtained from the garden looking out, these views would solely be of the public realm, and as such, would not represent an amenity concern. Furthermore, there would be a loss of privacy for the occupants of 17 Harvey's Close; however, this would be no different from simply removing the wall entirely and is to the applicant's own detriment. As such, the weight attributed to this is low.

No additional overshadowing would be created.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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, following mitigation, would be severe, taking into account all reasonable future scenarios".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, 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.

The comments of the Highway Authority have been noted; however, it is not considered that they would carry significant weight against the proposal. A 1m high boundary treatment could be constructed under the provisions of Schedule 2, Part 2, Class A of the General Permitted Development Order, 2015, in this position. This would have the same effect as the development proposed here, and would be beyond the control of the Authority.

Due to this significant fallback position, it is not considered that the proposal is unacceptable on

highway grounds.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Planning Balance

As detailed above, 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 proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, without causing undue harm to the highway network, whilst conforming with the SELLP and the provisions of the NPPF when viewed as a whole.

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 these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 33 and 36 of the SELLP, as well as Sections 9 and 12 of the NPPF. There are no significant factors

in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.