

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-0064-22 **Applicant:** Dale House Design & Build Ltd.

Proposal: Residential Development - comprising 4 bungalows and garages - approved under H22-0584-17. Modification of Condition 2 to allow amendments to previously approved plans to remove provision of footpath link.

Location: Adj. Elm Tree House 89 High Road Weston

Terminal Date: 22nd March 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development
33 Delivering a More Sustainable Transport Network

National Guidance

National Planning Policy Framework 2021

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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a S73A application relating to the residential development of 4 bungalows and garages on

land adjacent to Elm Tree House, 89 High Road, Weston which was previously approved under H22-0584-17 .

The applicant is seeking removal of Condition 2 in order to remove the requirement for the provision of a footpath link.

Site Description

The site is a corner plot limited by A151 to the north, High Road running along the east and south east, Elm Tree House and a detached house to the west and south west. Grade 1 Listed Building St. Mary's Church is located further to the west.

History

H22-0584-17- Approved FULL on 07-08-17- Residential development - comprising 4 bungalows and garages

Consultation Responses

Local Highway and Lead Local Flood Authority- The footway link was conditioned to H22-0584-17 as connectivity was required to the existing footway on High Road. The Footway connection is still required to connect the development to the Village and is necessary in planning terms. Failure to provide this connection will be detrimental to highway safety.

Planning Considerations

The principle of erecting four dwellings upon the site has already been established by virtue of the original approval. The key issue in this case is whether the frontage footway is necessary/justifiable on highway safety grounds.

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.

Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019 promote good design, including appropriate access and accessibility by a choice of travel modes. The National Planning Policy Framework (2021) stresses that the only reasons for restricting or refusing development on highway grounds are if a proposal would have an unacceptable impact upon highway safety or a severe residual cumulative impact on the highway network.

Highway Safety

Lincolnshire County Council (as Highway Authority) have been consulted as part of the application process and have objected to the proposal to remove the footpath link along the site frontage between the site and the existing footway network due to it being necessary in planning terms and failure to provide this connection would be detrimental to highway safety.

Planning Balance

The omission of a frontage footway would, in this situation, be expected to have an unacceptable impact upon highway safety. The proposal is therefore contrary to Policies 2 and 3 of the SELLP (2019) and Section 9 of the NPPF (2021).

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 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 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, it is recommended that the application be refused under delegated powers.