

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-0122-24 **Applicant:** Mr B King

Proposal: Division of Cobblestones into 2 Independent Dwellings (Retrospective) including New Vehicular Access to Annexe

Location: Cobblestones Marsh Road Wragg Marsh

Terminal Date: 5th April 2024

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019****National Guidance****National Planning Policy Framework 2023**

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal is for the subdivision of an existing dwelling including the formulation of an access on to Marsh Road.

Site Description

The site is located on Marsh Road in Wragg Marsh. It is outside any defined settlement boundary and within the open countryside. There are commercial/industrial units to the north/north-west of the site and 3no residential dwellings to the north-east. The wider area is predominantly rural. The application site comprises a bungalow with extensions to the side. There is a single access point to the site from Marsh Road. To the front is a gravelled driveway and a high level hedge forms the front boundary. There are various outbuildings on the site.

History

H22-0281-23 - Use of Cobblestones as two independent dwellings. Certificate not issued 24.04.2023

H22-1017-22 - Use of Cobblestones as two independent dwellings. Certificate not issued 06-12-22

Consultation Responses

Highways

No Objections 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 or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Environment Agency

We have reviewed the submitted flood risk assessment (FRA) and it does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance and its site specific flood risk assessment checklist or Policy 4 of the South East Lincolnshire Local Plan. The FRA does not therefore adequately assess the flood risks posed by the development.

However, given that the proposal appears to be a division within the same flood risk vulnerability classification, which would not result in an increase in the number of occupants that could be residing in the dwellings, we do not require a revised document to be submitted.

Nevertheless, we would like to point out that the dwellings do lie in an area classified under your Strategic Flood Risk Assessment as posing a 'Danger to All' persons, which includes emergency service personnel and the occupants of the dwellings should consider, and need to be aware of, this potential flood risk. Properties having not experienced flooding in the past is no indication of the likelihood of flooding occurring in the future and this site is at a 'high probability' of flooding as outlined in planning policy and guidance. Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me using the details below.

IDB

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the site boundary on Marsh Road and that works are proposed to alter this watercourse by constructing a new access. To enable this proposal consent is required under Section 23 of the

Land Drainage Act 1991 (and Byelaw 4). Please note that any alteration to the existing access to the 'original bungalow' would also require this consent.

Representations

A letter from the MP has been received in support of this application.

Planning Considerations

The proposal is for the subdivision of an existing dwelling. The applicant has previously submitted a lawful development certification to prove that the dwelling under this application has been lived in by two families living independently from each other. The LDC was not issued on grounds of insufficient information in relation to demonstrating 10 years however the property has clearly functioned as two separate dwellings for some time.

SELLP Policy 21 which is concerned with 'Houses in Multiple Occupation and the Sub-Division of Dwellings' is a bespoke policy for such assessments. Given its presence in the plan and notwithstanding that this is located within the open countryside, the proposal is therefore not a departure from the development plan. Furthermore paragraph 84d allows for 'the development would involve the subdivision of an existing residential building' in rural areas. Policy 21 provides an assessment on amenity and character amongst other things.

The following issues are relevant to this proposal:

Sub-division of dwelling
Highway Safety
Flood Risk and Drainage

Sub division of the dwelling

SELLP Policy 21 sets out the following criteria that need to be met when considering the subdivision of dwellings:

1. it would not result in the loss of family-sized dwellings in high density residential streets of predominantly terraced and/or semi-detached properties;
2. it would not significantly harm the amenities of the occupiers of adjoining or neighbouring properties by way of noise, overlooking, general disturbance or impact on visual amenity;
3. it would not have a significant adverse impact on the character and appearance of the area, including the historic and natural environment;
4. adequate provision is made for the storage and disposal of refuse and recycling;
5. it would not have a significant adverse impact on the surrounding area by way of increased on-street parking, impaired highway safety or by impeding proper access to the area;
6. the site has good access - by walking and cycling - to community facilities, services, public transport and local employment;
7. an adequate standard of residential accommodation and residential amenity is provided for future occupiers; and
8. adequate provision is made for the communal gardens and amenity areas.

Where all of the above criteria are satisfied, the Nationally Described Space Standards (or any successor) will be applied to ensure that the occupiers have adequate floor space.

The proposal which relates to a large bungalow property including an annexe that is adjoined to the front with a utility room, would retain two family sized properties following the subdivision of annexe and dwelling. The existing residential planning units with curtilage included is circa 1230sqm, it is the space afforded to the plot and not necessarily the size of the dwelling that allows the proposals to meet with the requirements of SELLP Policy 21.

Given both have functioned independently for sometime (albeit unable to demonstrate 10 years at the time of the LDC) the impact upon the amenity of one another would be acceptable. As part of the application no physical alteration are proposed to the dwellings themselves. There is sufficient

space to store refuse externally for both plots. It is likely that given the additional information presented by the MP that if submitted for an LDC again the annexe (to demonstrate it has been lived in beyond the immunity period for enforcement) could be considered in favorable terms and a certificate issued. This is also material to the assessment.

It is considered that given they are both currently used independently the effects from parking would be negligible, the applicant does also propose to formulate a separate access (to which highways have no issue). Whilst undoubtedly both properties would be car reliant, they have functioned in this manner for some time, the annexe and the dwelling, therefore to refuse on sustainable transport terms would be unreasonable given it is unlikely that a greater amount of vehicle trips would follow if approved.

The external amenity area are vast, shown on plans and experienced on site and a sufficient level of outdoor amenity would be retained for both properties. Lastly the internal space offers adequate accommodation that would meet with NDSS.

On this basis it is considered that the proposal would accord with SELLP Policy 21.

Highway Safety

SELLP 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.

SELLP 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.

SELLP Policy 36 is concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

The applicant proposed to formulate a new access point onto Marsh Road. Highways have considered and have no objections. Internally within the site ample amount of off-street parking provision exists for each dwelling and vehicles can enter and leave in a forward gear.

The proposal would provide sufficient parking and a safe access/egress to the site and would also have sufficient space to provide cycle storage provision. On this basis the proposal would accord with SELLP Policies 2, 3 & 36.

Flood Risk & Drainage

SELLP Policy 4 sets out the districts approach to flood risk. The application site is located within a high risk flood zone. The EA have made comments that given the location of the application site, the proposal would not comply with SELLP Policy 4. Although they recognise that the proposal would not result in a change of how the existing building is being used, they state:

However, given that the proposal appears to be a division within the same flood risk vulnerability classification , which would not result in an increase in the number of occupants that could be residing in the dwellings, we do not require a revised document to be submitted

The annexe is already being used as an independent dwelling and therefore there is no change to the vulnerability classification of the building, nor would a sequential or exception test be required. On this basis the proposal in flood risk principle terms is acceptable.

Drainage

The applicant seeks to culvert the existing watercourse to the front to allow for a new access. The watercourse is under riparian ownership but does still require consent under the IDBs byelaws. Given the consenting process it is not necessary to also apply mitigation through planning. An informative will be attached to any permission highlighting to the applicant that these steps are required.

The dwelling is already in situ and no additional built form is proposed; therefore no additional surface water is created.

On the above basis the proposal is considered acceptable in drainage terms.

Conclusion

The proposal meets with the requirements of policy 21 and is considered to be acceptable. There is no requirement to place a time start condition given that the site currently functions as two dwellings.

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.