

## DECISION DELEGATED TO DEVELOPMENT MANAGER

**Application No:** H23-0698-20      **Applicant:** Mr A Morris

**Proposal:** Proposed replacement dwelling - approved under H23-1086-08. Removal of Condition 4 to reinstate Permitted Development Rights

**Location:** Hazelnut Cottage 23 Roman Bank Saracens Head - East

**Terminal Date:** 21st October 2020

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

- 01                      Spatial Strategy
- 02                      Development Management
- 03                      Design of New Development

#### National Guidance

#### National Planning Policy Framework 2019

Paragraph 127 of Section 12 - Achieving well-designed places

### Representations:

|                | Object | Support | No Obj. | Comments |
|----------------|--------|---------|---------|----------|
| PARISH COUNCIL | 0      | 1       | 0       | 0        |
| WARD MEMBER    | 0      | 0       | 0       | 0        |

### CASE OFFICER ASSESSMENT

#### Proposal

This is a planning application that seeks permission under section 73a of the Town and Country Planning Act 1990 to remove Condition 4 of H23-1086-08.

Full planning permission was granted for a replacement dwelling under H23-1086-08. Condition 4 of this application restricted permission subject to the withdrawal of householder permitted development rights. The wording of the condition is as follows:

*"Notwithstanding the provisions of the Town & Country Planning (General Permitted Development) Order 1995, (or any Order or Statutory Instrument revoking and re-enacting that Order), none of the*

*following developments or alterations shall be carried out without the prior written approval of the Local Planning Authority:*

- i) the erection of freestanding curtilage buildings or structures including car ports, garages, sheds, greenhouses, pergolas or raised decks;*
- ii) the erection of house extensions including dormer windows, conservatories, garages, car ports, porches or pergolas;*
- iii) alterations including the installation of replacement or additional windows or doors and the installation of roof windows.*

*Reason: To ensure that the Local Planning Authority retains control over the future extension and alteration of the development, in the interests of its architectural and visual integrity and the visual amenity and character of the area within which it is set.*

*This Condition is imposed in accordance with Policy HS17 of the South Holland Local Plan 2006."*

## **Site Description**

The immediate area is characterised by residential development. Open agricultural fields though predominate the wider location of the site. A range of fairly recent housing development has been constructed forming a frontage onto Roman Bank. A range of house types, designs and appearances has been observed on the street scene.

The site is wide and restricted by depth. Hazelnut Cottage is a modern two-storey dwellinghouse with rustic appearance. The property is confined at the western part whereas ancillary development and garden is on the eastern part of the curtilage. Further householder development has been carried out since its construction as a replacement dwelling (see history below). A mix of low brick wall, fences and hedge and trees bound the site onto Roman Bank.

## **History**

H23-1086-08 - Proposed replacement dwelling - Approved

H23-0696-11 - Proposed detached garage and associated vehicular access - Approved

H23-0409-17 - Proposed side and rear extensions to dwelling - Approved

## **Consultation Responses**

### Whaplode Parish Council

No comment.

## **Planning Considerations**

### Principle of development

The principle of proposing the reinstatement of permitted development rights for householder is acceptable unless planning material considerations indicate otherwise.

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. The key material considerations are addressed below.

### Design and layout

Paragraph 127 of National Planning Policy Framework (NPPF), 2019 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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 states 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.

The site is out of the settlement boundaries for Saracens Head as set out in South East Lincolnshire

Local Plan (SELLP), 2019, thereby the designation of the area as countryside. Notwithstanding this, the site forms part of frontage development onto both sides of Roman Bank.

Since its construction, Hazelnut Cottage has obtained permission for a detached garage, gravelled driveway, vehicular access, and house extensions. Subsequent development has been approved and carried out on the site which have emphasised the residential nature of the plot. This has been permitted without harming the character of the surroundings.

Although the wider geographical context is characterised by open agricultural fields, the site is flanked by residential development stretching along Roman Bank. Further frontage development is opposite the road. Moreover, the development footprint contains a variety of housing types, designs and appearances which can be observed on the street scene.

For these reasons, no harm upon the character of the local area would occur should permitted development rights for householders be reinstated. The proposed removal of condition would ensure good design standards in accordance with the aforementioned planning policies.

### Residential amenity

Ground floor and single-storey development would be acceptable in terms of overbearing impact if fully complying with the criteria listed in GPDO 2015 (as amended).

Dormer windows on the front roof slope would not create any significant overlooking effect towards the residents of No. 4 and 5 Naylor's Nook opposite the road. The separation distances with the opposing elevations approximately range between 30 and 38 metres, thereby no loss of privacy would occur.

In summary, the proposed removal of condition would ensure residential amenity which is one of the key principles of design and development management as set out in Policies 2 and 3 of SELLP (2019).

### **Conclusion**

Taking into account the considerations above, the proposal is considered to comply with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019; and also Paragraph 127 of the National Planning Policy Framework (NPPF), 2019.

It is accordingly recommended to approve this planning application via delegated powers.

### **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.