

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-1101-21 **Applicant:** Mr K Shepperson

Proposal: Residential development for 3 dwellings - approved under H23-0231-18.
Removal of Condition 6 relating to footway & disposal of surface water run-off.

Location: Washway Road Saracens Head Spalding

Terminal Date: 21st December 2021

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
02	Development Management
03	Design of New Development
31	Climate Change and Renewable and Low Carbon Energy

National Guidance**National Planning Policy Framework 2021**

Section 2. Achieving sustainable development.
Section 9. Promoting sustainable transport.
Section 12. Achieving well-designed places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The site has outline planning permission and reserved matters approval for 3 no. 4 bed houses (ref. H23-0231-18 and H23-0224-21). This application is to remove condition 6 of outline planning permission ref. H23-0231-18 relating to the provision of a new 1.8m wide frontage footway.

Policy/Constraints

The site is located on the southern side of Washway Road on the eastern fringe of the village. Land between Saracen House and the site to the west has the benefit of planning permission for 3 bungalows (ref. H23-0980-17 and H23-1087-20). Residential development is located opposite.

Relevant Planning History

H23-0231-18 - O/A - Residential development for 3 no. dwellings - Granted 1 May 2018

H23-0224-21 - RM - Erection of 3 dwellings - outline approval H23-0231-18 - Approved 28 April 2020.

Consultation Responses

Whaplode Parish Council

Support

LCC Highways/SUDS

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

If (following testing) a strategy wholly reliant on infiltration is not viable and a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

Public

No comments received.

Planning Considerations

The principle of three dwellings has already been established upon the site. The determining 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, which is a key aspect of sustainable development. The National Planning Policy Framework 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.

Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has been consulted. It is understood that it has recently discussed with a Consultant, enquiring on behalf of the applicant, options for reducing the width of the footway required under condition 6 of the outline permission and for having a small residual verge area between the carriageway and the footway, into which surface water from the carriageway could infiltrate. However, it has indicated that experience elsewhere in the county has been that where this residual verge is very narrow, it can be vulnerable to damage by passing large agricultural vehicles. To make the verge wide enough to reduce the likelihood of this kind of damage, and to provide the required footway would, as the

agent has suggested, eat significantly into the area that is to be given to the front gardens of the consented dwellings.

The existing footway further to the west along this road, to which the requested new footway would join, although shown on the highway authority's records as being maintainable at the public expense, is not a properly surfaced footway. This road has street lighting and both this consented development and the consented development on the adjacent site to the west provide driveways onto which anyone walking along the carriageway could step, in the event of there being a vehicle coming along the site side of the road.

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 removal of condition 6 from the outline permission granted under reference H23-0231-18 would not, in this situation, be expected to have an unacceptable impact upon highway safety. The Highway Authority therefore raises no objections.

Conclusion

The omission of a frontage footway would not, in this situation, be expected to have an unacceptable impact upon highway safety. The proposal therefore accords with Policies 2 and 3 of the SELLP and advice within the Framework. It is therefore recommended that the application be approved under 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.