

Development Management Delegated Decision Report

B/21/0044



SUMMARY OF APPLICATION			
Application Reference	B/21/0044		
Application Type	Full Planning Permission		
Proposal	Construction of 2 no. semi-detached dwellings and demolition of existing storage building.		
Location	Rear of 35 Horncastle Road, Boston PE21 9JA		
Applicant	Mr Hambis Spanos		
Agent	Mr Simon Robinson, Studio 21 Design Ltd		
Received Date:	03-Feb-2021	Consultation Expiry Date:	10-Mar-2021
Valid Date:	11-Feb-2021	Statutory Expiry Date:	08-Apr-2021
Date of Site Visit:	31-Mar-2021	Extension of Time Date:	23-Apr-2021
Objections received?	Yes		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Viven Edge	1.4.2021	None	Yes
Neill Hastie	1.4.2021	None	Yes
Recommendation	GRANT Planning Permission		
Report by:	Simon Eldred		
Date:	19 th April 2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located on the northern side of Norfolk Street, Boston, but forms the rear yard of the property to its east, 35 Horncastle Road, which is in use as a fish and chip shop and dwelling. The application site measures approximately 0.02 hectares, has a concrete surface, contains two flat-roofed storage buildings (one free-standing and one attached to 35 Horncastle Road), and its boundaries (where they are not undefined or defined by buildings) are defined by: 1.8m-high close-boarded fences to the south and west; and a 2.5m-high wall to the north.

The surrounding area is densely developed, and is predominantly in residential use. The site is located just outside the boundary of the Boston Conservation Area, and there are several listed buildings/structures nearby – 30-39 Willoughby Road, the Maud Foster Drain walls, steps and railings, and Hospital Bridge (all Grade II).

DETAILS OF PROPOSAL:

It is proposed to demolish the existing flat-roofed storage buildings, and erect a pair of semi-detached, 2.5 storey dwellings. The pair of dwellings will measure approximately 7m x 11m in



plan and will stand 8.7m in height at ridge level (5.1m at eaves level). Each dwelling will have a living room, a kitchen/dining room, a hall and a WC at ground-floor level, two bedrooms and a bathroom and first-floor level, and a further bedroom on the second-floor (within the roof space). They are proposed to be built in red brick, with slate roof tiles, and will have: white painted timber vertical sliding sash windows with stone head and sill details; conservation rooflights in their front roof-slope; and to have coloured composite doors with stone head details. Floor levels will be raised to mitigate flood-risk and consequently there will be three steps at the front door and a ramp at the rear.

The dwellings will front onto the highway, without off-street parking, and with small yards at their rear. New 1.8m-high timber fences will be erected to define the site's western and eastern boundaries. Beyond the eastern fence, a yard for the fish and chip shop will be provided, and a separation distance of approximately 6m will be provided between the side wall of the more eastern dwelling and the rear wall of the fish and chip shop, where an extraction flue is located.

In its essentials, this proposal is identical to that approved under reference B/18/0030 (see below).

RELEVANT HISTORY:

B/15/0019 – full planning permission was granted for the construction of one pair of houses and demolition of existing storage building. This permission expired on 10th March 2018.

B/18/0030 – full planning permission was granted for the construction of 2 semi-detached dwellings and demolition of existing storage building (renewal of scheme approved under B/15/0019). This permission expired on 21st March 2021.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The **South East Lincolnshire Local Plan 2011-2036** shows the site as being within Boston's Settlement Boundary, and just outside the Conservation Area. The relevant policies of the Local Plan are:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development;
- Policy 4: Approach to Flood Risk;
- Policy 28: The Natural Environment;
- Policy 29: The Historic Environment;
- Policy 30: Pollution;
- Policy 31: Climate Change and Renewable and Low Carbon Energy; and
- Policy 36: Vehicle and Cycle Parking.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2019)

At the heart of the 2019 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 4: Decision-making;
- Section 5: Delivering a sufficient supply of homes;

- Section 9: Promoting sustainable transport;
- Section 11: Making effective use of land;
- Section 12: Achieving well-designed places;
- Section 14: Meeting the challenge of climate change, flooding and coastal change;
- Section 15: Conserving and enhancing the natural environment; and
- Section 16: Conserving and enhancing the historic environment.

CONSULTATION RESPONSES:

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) notes that the proposal includes no parking spaces, but considers that highway safety will not be unacceptably impacted given that the site is located close to services and facilities and in a location where occupants will not be reliant upon the private car. Consequently, it concludes that the proposed development is acceptable and, accordingly, does not wish to object. It does, however, ask that a highway informative is passed on to the applicant.

Boston Borough Council's Environmental Health Department indicates that it has no objections.

The Witham Fourth District Internal Drainage Board asks to be contacted if there is any change to the surface water or treated water disposal arrangements stated in the application.

Heritage Lincolnshire identifies that the site is located close to the Grade II listed Hospital Footbridge, and that any proposals need to preserve or enhance the special interest and character of this heritage asset. It concludes that the design and materials of the proposed dwellings are appropriate and that the proposals will have little to no impact upon the setting of the listed Footbridge.

THIRD PARTY REPRESENTATIONS RECEIVED:

A resident of Anton's Gowt asks for the installation of a minimum of five swift nest bricks in the buildings to provide biodiversity enhancements.

Two local residents object to the proposals. Their objections can be summarised as:

- concerns that the new dwellings will suffer smell nuisance from the fish and chip shop's extraction system;
- a request for a condition to be placed upon any approval to require construction works to be completed within an 18 month period to prevent a partially completed site being left; and
- concerns that no off-street parking facilities are provided:
 - given modern lifestyles and retail patterns, they disagree with the Highway Authority's argument that such provision is not necessary;
 - argue that this will lead to an increase in on-street parking on Grand Sluice Lane, where parking pressure already leads to:
 - private driveways being blocked;
 - the junction of Grand Sluice Lane with Norfolk Street being rendered unsafe;
 - the highway being blocked to the point where larger vehicles (e.g. bin lorries or fire engines) have been unable to pass; and
 - damage to boundary fences; and

- argue that the development of the site will further exacerbate parking/highway safety issues given that the fish and chip shop will continue to function, with weekly deliveries and the daily need for the proprietor to park.

EVALUATION:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations in regard to this application are:

- matters of principle;
- impacts on the character and appearance of the area and on heritage assets;
- residential amenity;
- flood risk;
- biodiversity;
- water use issues;
- parking provision; and
- other matters raised by objectors.

Principle

Policy 1 of the Local Plan identifies that, within Boston's Settlement Boundary, development will be permitted that supports its role as a Sub-Regional Centre. It is considered that a proposal to redevelop land to the rear of a retail unit to provide additional dwellings meets these requirements of Policy 1.

Impact on the character of the area and on heritage assets

Policy 2 of the Local Plan indicates that development will be permitted which will not have harmful impacts upon the character and appearance of the area.

Policy 29 of the Local Plan seeks the conservation and enhancement of the area's historic environment.

The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms the duty of a local planning authority to have special regard to the desirability of preserving conservation areas and the settings of listed buildings. In the context of Sections 66 and 72 of the Act, the objective of preservation is to cause no harm. The courts have said that this statutory requirement acts as a paramount consideration – 'the first consideration for a decision maker'. Planning decisions require balanced judgement but, in that exercise, significant weight must be given to the objective of heritage conservation.

In practice, this requires a methodical approach to be followed, whereby the relevant assets that would be affected are identified, along with their significance. Consideration can then be given to any effects on this significance resulting from the proposals, which may be reduced through mitigation. If harm is identified, it is then required to establish the scale and extent of such harm, before moving on to matters such as the planning balance and weighing the public benefits arising against any identified harm.

Heritage assets affected – It is considered that a number of heritage assets could potentially be affected. Firstly, although the application site is not located within the Boston Conservation Area,

it abuts the Area and clearly affects views out of it. Secondly, there are a number of listed buildings in the vicinity. Of these, it is considered that the development has the potential to affect the settings only of the Maud Foster Drain walls, steps and railings, and Hospital Bridge (both Grade II) which are located 30m to the east of the site.

Impacts of the proposals on these assets – The existing storage buildings and concrete-surface yard make no positive contribution to the character of their surroundings and the Conservation Area, or to the settings of nearby listed buildings, and indeed detract from them. In contrast, the design of the proposed dwellings is of a high quality, and is considered to be sympathetic to: the character and appearance of the surrounding area generally; the character and appearance of the Conservation Area; and the settings of the nearby listed buildings - a view shared by Heritage Lincolnshire.

The site is visually prominent and, given its proximity to heritage assets, it is considered important for the materials used to be of a high quality. It is therefore considered that conditions should be imposed to require the approval of the dwellings' external surfaces, rainwater goods, windows, doors and rooflights. This would also follow the provisions of the previous permission B/18/0030.

In all (and subject to the above conditions), it is considered that the proposals will not adversely affect: the character and appearance of the area; the character and appearance of the Boston Conservation Area; or the settings of nearby listed structures. It is therefore considered that the proposals meet the requirements of the Planning (Listed Buildings and Conservation Areas) Act 1990, and Policies 2 and 29 of the Local Plan.

Residential amenity

Policies 2 and 3 of the Local Plan require the amenity of neighbouring land users to be protected.

Policy 30 seeks to ensure that a proposal will not suffer adverse impacts from existing uses. An objector has expressed concerns that the new dwellings will suffer smell nuisance from the fish and chip shop's extraction system

The proposed dwellings will be

- located within just over 2m of the dwelling to the west, 143 Norfolk Street. However, this dwelling has no window or door openings in its eastern elevation, and the new dwellings have no openings in their side elevations. Consequently, it is considered that 143 Norfolk Street will suffer no unacceptable adverse impacts in terms of harm to outlook, overlooking/loss of privacy, or over-shadowing/loss of light;
- more than 10m from the terrace of dwellings on the opposite side of Norfolk Street and, at this distance, it is considered that they will cause no unacceptable adverse impacts;
- located approximately 3m from the boundaries with the neighbouring gardens to the north. However, high-level windows are proposed at first-floor level in the proposed dwellings' rear elevations, and it is considered that this will mitigate against overlooking/loss of privacy.

Nonetheless, given the proximity of the proposed dwellings to neighbouring residential properties, it is considered necessary to impose a condition to remove permitted development rights to make alterations or extensions that would have the potential to have adverse impacts upon those neighbouring properties.

A 1.8m-high timber fence and a 5m wide yard will separate the side wall of the more eastern proposed dwelling from the rear wall of the fish and chip shop, where an extraction flue is located. It is considered that these measures will ensure that the proposed new dwellings will suffer no unacceptable adverse effects from the operation of the fish and chip shop, and the Borough Council's Environmental Health department has expressed no concerns in this regard.

In all, therefore, it is considered that the proposals meet the requirements of Policies 2, 3 and 30 in respect of potential impacts on residential amenity.

Flood risk

Policy 4 of the Local Plan seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere.

The application is accompanied by a Flood Risk Assessment (FRA) which identifies potential sources of flooding, that existing ground levels are 3.1m AOD, and that:

- the ground-floor Finished Floor Levels of the dwellings should be set at 450mm above ground level (i.e. at 3.55m AOD);
- no sleeping accommodation should be provided on the ground-floor;
- flood proofing and flood resilience measures should be incorporated into the dwellings' construction at least 300mm above ground level; and
- the proposals will have no adverse effects on other properties.

It is considered that, subject to a condition to require the implementation of the flood mitigation measures identified in the FRA, the proposals meet the requirements of Policy 4.

Biodiversity

Policy 3 requires the incorporation of existing hedgerows and trees into development proposals, and the provision of appropriate new landscaping to enhance biodiversity.

Policy 28 requires all development proposals to provide an overall net gain in biodiversity.

Policy 31 requires all development proposals to incorporate measures which promote and enhance green infrastructure and provide a net gain in biodiversity.

A respondent asked for the installation of a minimum of five swift nest bricks in the buildings.

The application site is currently concrete-surfaced or contains buildings (which show no signs of providing nesting or roosting sites), and contains no trees, shrubs or hedges. It therefore contains no meaningful features of biodiversity value which could be incorporated into the development. Although no landscape planting is proposed (given the limited size of the plots) four bat boxes are proposed to be built-in to the dwellings' side elevations, as well as 6 swift bricks in their front and rear elevations.

It is considered that the above measures will significantly enhance the nesting and roosting opportunities offered by the site, and will ensure that the proposals will provide an overall net gain in biodiversity and meet these requirements of Policies 2, 28 and 31.

Water use issues

Policy 3 requires development proposals to minimise the use of water, and Policy 31 specifically requires residential development to comply with the Building Regulation water efficiency standard of 110 litres per person per day.

The application and accompanying documents do not address issues concerning water use. However, it is considered that this matter can be adequately dealt with by the attachment of a condition to require the water consumption of each dwelling to not exceed 110 litres per person per day.

It is considered that, subject to this condition, the proposals meet these requirements of Policies 3 and 31.

Parking provision

Policy 36 indicates that all new development should provide vehicle and cycle parking in accordance with minimum standards set out in Appendix 6. The Appendix indicates that 2 car parking spaces and 1 cycle parking spaces should be provided within the curtilage of each dwelling with up to three bedrooms. The proposed development includes two 3-bed dwellings, and the above standards therefore require the provision of 4 car parking spaces and 2 cycle parking spaces, but the proposals include no such provision, and this has attracted objections from nearby residents.

This shortfall weighs against the proposals. However, paragraph 105 of the NPPF states that *“local parking standards ... should take into account: the accessibility of the development”* and *“the availability of and opportunities for public transport”*. The application site is located less than 300m from the edge of Boston’s Town Centre, there are opportunities for travel to services, facilities, jobs and schools on foot, by bicycle and by public transport, and each dwelling is provided with a rear garden within which cycles could be securely stored. Consequently, and notwithstanding the objections, it is considered that the lack of off-street parking is not a cause for concern, and that the proposal will not generate on-street parking that would be detrimental to highway safety or the amenity of the occupants of nearby residential properties, and this is a view shared by the Local Highway Authority.

In all, therefore, it is considered that the proposal makes adequate provision for the parking of bicycles and has been sufficiently balanced in respect of the shortfall in respect of car parking.

Other matters raised by objectors

An objector asks that a condition should be placed upon any approval to require construction works to be completed within an 18 month period to prevent a partially completed site being left uncompleted. It is considered that: no evidence has been put forward to demonstrate that the imposition of such a condition is necessary or relevant to the development proposed; and that it would therefore not pass the tests set out in the NPPF.

CONCLUSION:

The proposals:

- will (subject to two conditions) not adversely impact upon the character of the area or upon heritage assets;

- will not adversely impact upon residential amenity;
- are acceptable in flood risk terms;
- will provide an overall net gain in biodiversity;
- will (subject to a condition) minimise the use of water; and
- meet the requirements of the relevant Policies of the South East Lincolnshire Local Plan 2011-2036.

The proposal does not accord with the Local Plan's requirements in that they do not include on-site car parking to meet defined minimum standards, and this weighs against them. Although the proposals include no car parking provision, it is considered that they will not have unacceptably harmful effects through an increase in on-street parking.

On balance, it is considered that the proposals are in accordance with the Policies of the Local Plan when taken as a whole. Where any minor conflicts with the Plan or minor material harm occur, these negatives would be outweighed by other material planning considerations. It is therefore considered appropriate for planning permission to be granted.

RECOMMENDATION:

GRANT Planning Permission subject to the following conditions and reasons:-

CONDITIONS / REASONS	
Pre-commencement conditions?	Agreed with applicant/agent - Date:
1.	<p>The development hereby permitted shall be begun before the expiration of four years from the date of this permission.</p> <p>Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2.	<p>The development hereby permitted shall be carried out in strict accordance with the application received on 03-Feb-2021 and in accordance with the associated plans referenced:</p> <ul style="list-style-type: none"> • Un-numbered plan: Ordnance Survey Location Plan; • Drawing No. 12-321-02 Revision F: Proposed Block Plan and Proposed Elevations; • Drawing No. 12-321-03 Revision F: Proposed Floor Plans and proposed 3D Sketches; and • Drawing No. 12-321-04 Revision C: Proposed Elevations and Proposed Sections A/A. <p>Reason: To ensure the development is undertaken in accordance with the approved details and to comply with Policies 1, 2, 3, 4, 28, 29, 30, and 31 of the South East Lincolnshire Local Plan 2011-2036.</p>
3.	<p>Notwithstanding the provisions of the approved drawings, no development shall take place above ground level until details of the materials proposed to be used in the construction of the external surfaces of the dwellings have been submitted to and</p>

	<p>approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.</p> <p>Reason: To ensure that the development is in keeping with the character and appearance of the area, the Boston Conservation Area and the setting of nearby listed buildings, in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan 2011-2036.</p>
4.	<p>Notwithstanding the provisions of the approved drawings, no development shall take place above ground level until details of the proposed rainwater goods, windows, doors and rooflights have been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.</p> <p>Reason: To ensure that the development is in keeping with the character and appearance of the area, the Boston Conservation Area and the setting of nearby listed buildings, in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan 2011-2036.</p>
5.	<p>Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that order with or without modification)</p> <ul style="list-style-type: none"> • no external alterations shall be carried out to the dwellings; • no extensions shall be carried out to the dwellings; • no garages or outbuildings shall be erected within the curtilages of the dwellings; • no gates, wall, fence or other structures (other than those hereby approved) shall be erected; and • no windows or dormer windows shall be added to the dwellings <p>without the express permission of the Local Planning Authority.</p> <p>Reason: To protect the residential amenity of neighbouring residents, and in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan 2011-2036.</p>
6.	<p>The development permitted by this planning permission shall be carried out in accordance with the mitigation measures set out in the accompanying Flood Risk Assessment.</p> <p>Reason: To reduce the risk of flooding to the proposed development and future occupants, and to accord with the requirements of Policy 4 of the South East Lincolnshire Local Plan 2011-2036.</p>
7.	<p>The water consumption of each dwelling hereby permitted should not exceed the requirement of 110 litres per person per day (as set out in the optional requirement in Part G of the Building Regulations 2010 and Policy 31 of the South East Lincolnshire Local Plan 2011-2036).</p> <p>The person carrying out the work must inform the Building Control Body that this duty applies.</p>

	<p>A notice confirming the requirement for the water consumption has been met shall be submitted to the Building Control Body and Local Planning Authority, no later than five days after the completion of each individual dwelling.</p> <p>Reason: To protect the quality and quantity of water resources available to the district. This condition is imposed in accordance with Policy 31 of the South East Lincolnshire Local Plan 2011-2036.</p>
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INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE	
<p><u>STATEMENT OF PROACTIVE WORKING:</u></p> <p>In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.</p>	
<p>Lincolnshire County Council asks that the applicant should “contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timing of these works.</p> <p>The Witham Fourth District Internal Drainage Board asks to be contacted if there is any change to the surface water or treated water disposal arrangements stated in the application.</p>	