

DECISION DELEGATED TO HEAD OF PLANNING**DECISION DELEGATED TO HEAD OF PLANNING**

Application No: H03-0880-23 **Applicant:** Mr & Mrs Broderick
Proposal: Erection of single storey extension to dwelling
Location: 40 Haywain Drive Deeping St Nicholas Spalding
Terminal Date: 27th November 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Not applicable for a Lawful Development Certificate Section 192 application as it is a legal determination.

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT**Proposal**

This is an application for a Lawful Development Certificate to confirm that the proposed single storey rear extension at 40 Haywain Drive, Deeping St Nicholas is lawful and does not require the submission of a planning application.

Site Description

The application site is a detached two storey dwelling that lies on Haywain Drive, Deeping St Nicholas. The site is located within a residential area and is surrounded by dwellings of varying designs.

History

No relevant planning history.

Consultation Responses

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have

been received.

Evaluation

The proposal involves the erection of a single storey rear extension at 40 Haywain Drive, Deeping St Nicholas.

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed use would be lawful.

The key issue for decision is whether the proposed works are either (i) not development; or (ii) permitted development. The works are considered to be development, as defined by section 55 of the Town and Country Planning Act 1990, because they involve building operations that are either "structural alterations of or additions to buildings" or "other operations normally undertaken by a person carrying on business as a builder".

The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions and the proposal.

Planning Considerations

The Town and Country Planning (General Permitted Development) (England) Order 2015 Schedule 2 Part 1 Class A - enlargement, improvement or other alteration of a dwellinghouse

There are many aspects and criteria under Class A of the GPDO; however, in considering this application the most relevant criteria to consider comprises point (j):

(j) the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse, and would—

- (i) exceed 4 metres in height,
- (ii) have more than a single storey, or
- (iii) have a width greater than half the width of the original dwellinghouse

The application states that the extension is single storey and sits to the rear of the dwelling; however, in considering and assessing the plans, the proposed extension appears to be connecting to the existing garage, which is attached to the side of the existing dwelling, and extends/projects beyond both the rear elevation of the host dwelling and the side elevation of the dwelling, when considering the garage in addition.

As the proposed extension is connecting to the garage's side elevation, which itself projects beyond the side elevation of the host dwelling, the extension would be a side extension in addition to solely a rear extension. Therefore, as the proposed extension would comprise a width greater than half the width of the original dwellinghouse when viewed in its totality, it would not constitute permitted development under Part 1 Class A.

Conclusion

The proposed extension does not constitute permitted development under Schedule 2 Part 1 Class A of the General Permitted Development Order (2015). The proposed width of the extension would be greater than half the width of the original dwellinghouse and would constitute operational development for which a grant of planning permission would be required.

Accordingly, it is concluded that a certificate of lawfulness should be refused

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.