DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-0322-24**	**Applicant:**	**Mr V Holland-Leavens**
Proposal:	Proposed single storey extension and alterations		
Location:	Parochial Church Hall 17 Church Street Donington		
Terminal Date:	6th June 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as revised 2021)

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is a Section 192 certificate application for a proposed single storey rear extension and alterations at 17 Church Street, Donington.

The internal alterations amount to the re-locating of the internal staircase amongst other minor internal alterations.

Site Description

17 Church Street is a C19th dwelling, of an attractive nature. The frontage is completed in a 3-bay pattern, with bay windows flanking either side of the front door. The building is notable locally for its comparatively broad, bracketed soffits, and the dual sawtooth pitched roof, oriented parallel to the frontage elevation, with a central tough. The building is unlisted, and nor is it subject to an article 4 direction. Owing to its locally distinctive qualities, however, it can be considered to offer a substantial contribution to the Donington Conservation Area, within which it is situated upon a prominent location.

History

None relevant.

Consultation Responses

None

Evaluation

This application is a Lawful Development Certificate which seeks confirmation of the lawfulness of a proposed rear extension at 17 Church Street, Donington

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed extension would be lawful without planning permission. The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions or any article 4 directions.

The Local Planning Authority has not received any application relating to the proposed extension.

Planning Considerations

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

Relevant provisions of the Town and Country Planning Act, 1990

In relation to proposed development, Section 192 of the Town and Country Planning Act, 1990, provides that:

(1) If any person wishes to ascertain whether-
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall-
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d) specify the date of the application for the certificate.

(4)The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Furthermore, Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as revised 2021) provides that and enlargement, improvement, or other alteration to a dwellinghouse would be permitted development if it meets the following requirements:

(a)permission to use the dwellinghouse as a dwellinghouse has been granted only by virtue of Class M, N, P or Q of Part 3 of this Schedule (changes of use);

(b)as a result of the works, the total area of ground covered by buildings within the curtilage of the dwellinghouse (other than the original dwellinghouse) would exceed 50% of the total area of the curtilage (excluding the ground area of the original dwellinghouse);

(c)the height of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the highest part of the roof of the existing dwellinghouse;

(d)the height of the eaves of the part of the dwellinghouse enlarged, improved or altered would exceed the height of the eaves of the existing dwellinghouse;

(e)the enlarged part of the dwellinghouse would extend beyond a wall which
(i)forms the principal elevation of the original dwellinghouse; or
(ii)fronts a highway and forms a side elevation of the original dwellinghouse;

(f)subject to paragraph (g), the enlarged part of the dwellinghouse would have a single storey and
(i)extend beyond the rear wall of the original dwellinghouse by more than 4 metres in the case of a detached dwellinghouse, or 3 metres in the case of any other dwellinghouse, or
(ii)exceed 4 metres in height;

(g)until 30th May 2019, for a dwellinghouse not on article 2(3) land nor on a site of special scientific interest, the enlarged part of the dwellinghouse would have a single storey and
(i)extend beyond the rear wall of the original dwellinghouse by more than 8 metres in the case of a detached dwellinghouse, or 6 metres in the case of any other dwellinghouse, or
(ii)exceed 4 metres in height;

(h)the enlarged part of the dwellinghouse would have more than a single storey and
(i)extend beyond the rear wall of the original dwellinghouse by more than 3 metres, or
(ii)be within 7 metres of any boundary of the curtilage of the dwellinghouse opposite the rear wall of the dwellinghouse;

(i)the enlarged part of the dwellinghouse would be within 2 metres of the boundary of the curtilage of the dwellinghouse, and the height of the eaves of the enlarged part would exceed 3 metres;

(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; or

(k)it would consist of or include
(i)the construction or provision of a verandah, balcony or raised platform,
(ii)the installation, alteration or replacement of a microwave antenna,
(iii)the installation, alteration or replacement of a chimney, flue or soil and vent pipe, or
(iv)an alteration to any part of the roof of the dwellinghouse.

A.2 In the case of a dwellinghouse on article 2(3) land, development is not permitted by Class A if

(a)it would consist of or include the cladding of any part of the exterior of the dwellinghouse with stone, artificial stone, pebble dash, render, timber, plastic or tiles;

(b)the enlarged part of the dwellinghouse would extend beyond a wall forming a side elevation of the original dwellinghouse; or

(c)the enlarged part of the dwellinghouse would have more than a single storey and extend beyond the rear wall of the original dwellinghouse.

Lawful Development - Assessment

The applicant has submitted this Lawful Development Certificate to gain confirmation as to the lawfulness of a proposed rear extension as well as some internal alterations. The application has been supported by:

- Location & Block Plan
- Details of the proposed bricks
- Photographs of the Dwelling
- Existing and Proposed Site Plan
- Existing Roof Plan, Existing First Floor Plan and Existing Ground Floor Plan
- Existing Elevations
- Proposed Roof Plan, Proposed First Floor Plan and Proposed Ground Floor Plan
- Proposed Elevations

- Statement of case
- Proposed Elevations and Proposed Ground Floor Plan
- Proposed Block Plan

In this instance, the proposed extension 2.9m (D) x 3.56m(W) x 3.588m (H) with an eaves height of 2.7m. The proposed is an extension to the rear of the property, which would project from the rear elevation by 2.9m.

The property is a terraced dwelling, and is situated on Article 2(3) land in the form of the Donington Conservation Area. The proposed extension falls within all of the dimensional and locational limits of permitted development as defined by the above relevant section of the General Permitted Development Order and as such, as proposed the extension would be considered to be permitted development.

However, there are conditions applied to permitted development rights. In this case, there is only one relevant condition, which is under Para A.3(a) of Schedule 2, Part 1, Class A of The Town and Country Planning (General Permitted Development) (England) Order 2015 (as revised 2021), which confirms that "the materials used in any exterior work (other than materials used in the construction of a conservatory) must be of a similar appearance to those used in the construction of the exterior of the existing dwellinghouse;"

In this instance, the applicant has proposed to utilise matching red brick, with a tiled roof and PVC windows. Whilst this is a conservation area, and PVC is not typically considered a part of the local vernacular, it would not appear dissimilar enough from the extant matter of the property to foul permitted development rights. All other external materials are fully typical and in sympathy with the host property.

With regard the internal layout alterations, as the property is not listed, such alterations would not be considered to comprise development and therefore are not subject to planning controls and do not require consent.

As such, the Local Planning Authority concludes that the proposed extension and alterations would be lawful without the need for planning permission to be sought and approved.

Conclusion

No objections have been received that provide information that contradicts the evidence given by the applicant, or the assessment of information that has taken place by the Local Planning Authority.

Based on the information detailed above, including the supporting information and an assessment of site history, it is considered that the proposed extension would fall within the threshold of permitted development.

It is therefore considered appropriate to issue a certificate of lawfulness.

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.