

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H04-0744-24 **Applicant:** Mr & Mrs G Wilson

Proposal: Proposed Replacement Bungalow (to include demolition of existing) - approved under H04-0608-23. Modification of Condition 2 to allow amendments to previously approved plans

Location: 12 Mill Lane Donington Spalding

Terminal Date: 29th October 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This is a Section 73A application, seeking to modify condition 2 of H04-0608-23, relating to approved plans. It is proposed that two additional skylights would be added to the rear of the property, in place of the upper strip of solar panels. These panels would be inserted onto the southern pitch instead.

Site Description

The site is within the settlement boundaries of Donnington, as outlined within the South-East Lincolnshire Local Plan, 2019. The site lies towards the east of the town, in a predominantly residential area. Despite this overriding residential character, there is a large industrial site opposite the plot. The site is approximately 15 metres east of the Donnington Conservation Area.

Mill Lane is characterised by properties of varying age and design. The application site now hosts the dwelling (almost complete) approved under H04-0608-23. From site visit I is clear that the bungalow property is now in situ, though some construction works are still ongoing.

Relevant History

H04-0608-23 - Full. Proposed Replacement Bungalow (to include demolition of existing). Approved 20/09/23.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Highways & SuDs Support

The proposal is for minor amendments to condition 2 that already has approval under 0608- 23. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Conservation Officer

No objection

Environmental Protection

No comments regarding amendments of condition 2

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of objection have been received.

These can be summarised as:

Objection 1

Expresses concerns especially in relation to overlooking as well as a breach of planning and broader residential amenity concerns.

Objection 2

The objection is based upon the breaches that have occurred. The objector states that should the original application have been for the development that makes up this submission then they would have objected previously.

Key Planning Considerations

The application site already benefits from an extant planning permission to erect a replacement dwelling (which is built). This was approved under H04-0608-23, it is considered then that there is no requirement to revisit matters of planning principle.

This proposal simply seeks to regularise the approved plans associated with that permission, namely, to insert two roof lights into the rear roof pitch, remove some Solar PVs on the rear pitch and place them on the side roof pitch (south pitch) . The following issues are therefore relevant for consideration:

- Character Impacts
- Residential Amenity Impacts
- Climate Change and Renewable and Low Carbon Energy
- Previously attached conditions

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Layout, Design, Scale and Consideration of the Character of the Area

SELLP Policy 2 outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore,

SELLP Policy 3 requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

NPPF Section 12 is concerned with *Achieving well-designed and beautiful places*, it states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

The proposed rooflights would be to the rear of the property, thereby having limited character impacts upon the area. Their scale and positioning on the dwelling would therefore be acceptable given limited harm would follow.

The applicant also proposes to remove a row of solar PVs that were approved on the rear pitch and place on the site pitch. Given the likely thickness of the panels (shown on plan) and the dark roof dressing this would not lead to an unacceptable character impact.

On this basis the proposed changes would be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Policy 2 and of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

NPPF Paragraph 135 states that development should 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.

The roof lights are located on the rear roof pitch and given their scale, location and angle would not present a level of overlooking that would be detrimental to neighbouring amenity, to a level that would warrant refusal. Objections have been received suggesting that the roof lights would lead to overlooking impacts. Having assessed this application it is considered that for the reasons mentioned that the impact would not be at a level that would warrant refusal.

The relocation of solar PVs would also not be unacceptable in terms of residential amenity impacts.

The solar panels would create no additional glint or glare which would harm neighbouring dwellings. The neighbouring dwelling sites 'side by side' with the applicants dwelling and the location of those PVs even if there would be instances of glare would not be at a sufficient level to warrant refusal.

On this basis it is considered that the amendment would accord with SELLP Policies 2 and 3 as well as NPPF Paragraph 135.

Climate Change and Renewable and Low Carbon Energy

SELLP Policy 31 is concerned with climate change and renewable energy. Part B is specific to Renewable energy. It sets out a list of criteria proposals must adhere to, such as providing no significant harm to:

1. visual amenity, landscape character or quality, or skyline considerations; 2. residential amenity in respect of: noise, fumes, odour, vibration, shadow flicker, sunlight reflection, broadcast interference, traffic; 3. highway safety (including public rights of way); 4. agricultural land take; 5. aviation and radar safety; 6. heritage assets including their setting; and 7. the natural environment.

The relocation of the PVs would not result in unacceptable character impacts (see character section) or give rise to unacceptable residential amenity impacts (see amenity section), there would be limited impact upon the users of the highway being positioned on a side roof pitch and the application site is located outside of the conservation area for Donington.

On this basis then the relocation of Solar PVs is acceptable and would accord with SELLP Policy 31.

Previously attached conditions

A number of conditions were attached to planning permission H04-0608-23. However not all are still relevant as the dwelling is almost complete. Of those conditions on the approved plans, FRA and water consumption will require reattachment.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The principle of development was established under H04-0608-23. The proposed addition of rooflights and the relocation of solar panels would not lead to unacceptable impacts in relation to character or amenity.

On this basis there is limited material weight that could be applied that would prevent the support of this application.

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.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with SELLP Policies 2, 3 and 31, as well as Section 12 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.