Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE
Admin 01775 764725
DC Officers 01775 764703

planningadvice@sholland.gov.uk
www.sholland.gov.uk

G R Merchant Ltd
Unit 4 Wrights Mews
12a Park Road
Holbeach
Spalding
PE12 7EE

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 73A CONTINUATION

Reference: H05-0492-22 **Date of Decision:** 12th July 2022

Applicant: Mr & Mrs Gale
Westwaize
Langary Gate Road
Gedney Hill
Spalding
PE12 0RU

Location: Westwaize Langary Gate Road Gedney Hill Spalding

Description: Proposed Garage/Store & Annexe - approved under H05-0781-20. Modification of Condition 2 to allow amendments to previously approved plans

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 The building as originally proposed was to contain a garage and implement store at ground floor, and the annexe element was to be located at first floor, comprising of 3 bedrooms and a bathroom. 3 bedrooms in an annexe is unusual and normally not permitted, but was considered acceptable in the context of the proposed uses at ground floor and the size of the site. However, the proposal is to change the ground floor uses to a games room and an 'outdoor kitchen / BBQ and storage'. The latter does not appear to be outdoor, rather it is fully enclosed and served by doors and has a side elevation window. It therefore appears that it would in fact be an indoor kitchen. In terms of the games room, it is unusual for such a space not to include an area of seating and a TV, and could reasonably be a living space for the building. Overall, it is considered that the proposed changes would effectively result in a building that is tantamount to an independent residential unit.

Ordinarily, such development would be assessed against Policy 1 of the South East Lincolnshire Local Plan, 2019, but given that a residential dwelling would be a distinctly

different use to the development description of the present application, it would not be appropriate to consider the merits of that under this application. Even if it were to be concluded that the proposed uses would not result in the creation of an independent residential unity, it would still conflict with the development description, which cannot be altered by means of a Section 73A application.

Notes:

The determined plans are:
3692-20 01A
3692-20 02E

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch



Phil Norman
Planning Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.