DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H07-0924-23**	**Applicant:**	**Mr P Lambe**
Proposal:	Replacement Dwelling - approved under H07-0332-12. Details relating to windows and doors - discharge of Condition 11 and removal of Condition 12		
Location:	Adj. 74 North Road Gedney Hill Spalding		
Terminal Date:	29th December 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
28	The Natural Environment
29	The Historic Environment

National Guidance

National Planning Policy Framework 2023

Section 4 - Decision-Making
Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is submitted under Section 73 of The Town & Country Planning Act 1990. The applicant seeks the discharge (details of window frames) of condition 11 and the removal of condition 12 of planning application H07-0332-12.

Condition 12 required:

All new window frames, glazing bars, doors and external door frames shall be of timber construction, white painted and thereafter so maintained.

Site Description

The proposal site fronts North Road, Gedney Hill and relates to a detached dwelling, approved as a replacement under H07-0332-12. From site visit it was seen that the external envelope of the dwelling is built, with the exception of windows and doors. Heras fencing provides security to the site.

There is a mix of dwellings in the area, these range from single storey to two storey dwellings, detached and semi-detached. The mix of architectural styles is broad, there are example of both UPVC treated openings as well as timber.
The application site is located outside of the settlement boundary of Gedney Hill, though already built and in an area which has a number of dwellings.

History

H07-0332-12 - Replacement dwelling (re-submission of H07-0920-11). Approved 03-07-12
H07-0788-09 - Proposed detached double garage/store. Approved 24-11-09
H07-0920-11 - Replacement dwelling. Refused 20-01-12

Consultation Responses

No comments received.

Planning Considerations

The applicant has submitted details of windows and door openings. These are UPVC. Condition 11 of permission H07-0332-12 requires these details to be agreed and condition 12 requires the materials to be 'timber'.
The following issues are therefore relevant to this assessment:

Design and Heritage

Design & Heritage

Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Policy 3 sets out the 'Design of new development' in part it states that "Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable"

Policy 29 which is concered with the historic environment, in part states "To respect the historical legacy, varied character and appearance of South East Lincolnshire's historic environment, development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets, such as important known archaeology or that found during development, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design."

Use of Timber

Planning application H07-0332-12 was approved as a replacement dwelling. The previous dwelling on site was considered to be a non-designated heritage asset (NDHA). The replacement was built to be sympathetic to the asset that was lost. In an attempt to retain some of the historic connection a condition was applied to the permission that all openings should be of timber construction. The

reason for the condition was in the interest of archaeological composition and appearance of the development. It should be noted that there are no listed buildings located nearby nor is there a conservation area.

The requirement to use timber on the replacement dwelling is considered unreasonable. The proposal whilst approved to a sympathetic palate of materials is made up of modern facing brick and built to modern construction standards despite the heavily regulated approach to the submission of external materials and the request for the brick to be arranged in an English Garden Bond. It does not follow suit then that openings should be constructed of a timber material, the requirement rather should be that the proposed openings should be appropriate.

There is no authenticity argument to direct that timber is required as the dwelling is effectively a modern build which is 'designed to look old'; this approach to design cannot therefore not preclude modern materials as regards openings (but allow them elswhere in the build), it is only reasonable to 'insist' on appropriate materials. There are alternative materials to timber that can retain a 'look' that is sympathetic to a heritage environment. This level of control applied to the design appears to be disproportionate given the surrounding environment (there are examples of UPVC on neighboring properties, the building is not listed, nor an NDHA, nor are there any listed buildings which would be affected by this proposal), and that the dwelling is a new build (made to look old), therefore whilst control of the openings to ensure that they are appropriate is required, the directive that they must be timber represents over regulation.

Ultimately whilst details of openings are required, and should be controlled going forward (to ensure that the openings are commensurate with the design approach) to niche them to just timber is unreasonable in this instance. The condition will therefore be removed.

Proposed Materials

The proposal seeks approval a new schedule of openings. The windows previously approved were cream timber. The applicant seeks permission for these to be changed to cream uPVC sash windows as detailed in the Roseview product guide. The proposed doors will also be changed from cream timber (as approved) to cream composite doors as detailed in the Solidor brochure and the bi-fold being cream smart aluminum as detailed in the Smart Architectural Aluminum brochure.

The proposed windows are an 8 pane sliding sash and are considered acceptable. Whilst a specific door has not been chosen, all the doors contained within the Solidor brochure have a heritage esque appearance and be appropriate for the new door. Also to the rear any of the aluminum doors contained within the 'Smart Architectural' brochure would again be acceptable.

These materials will be conditioned to be retained.

The proposed palate of materials are therefore considered acceptable and would accord with policies 2 and 3 of the SELLP.

Other Issues

Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect. Further information about conditions can be found in the guidance for use of planning conditions.

The only condition considered to continue to have effect given that the dwelling is effectively built attached to planning application H16-1314-97 are conditions 5 (Removal of PD), this condition is required to protect the open countryside from in appropriate development. It requires that should any openings be changed (including doors) that first they must be agreed in writing with the LPA.

Conclusion

The proposed windows and doors are considered acceptable. Despite not being timber they would retain an antiquated aesthetic. To refuse them on the basis of not being timber would be ultra vires given that the property is a new build dwelling (conforming to modern building standards) it did not replace a listed building and does not affect the setting of one, nor is it in a conservation area. The proposal is therefore considered acceptable. Control of materials is retained through the removal of Permitted Development.

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.