

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H07-0986-22 **Applicant:** Mrs R Zdroba

Proposal: Erection of two storey dwelling - retrospective - approved under H07-0815-20. Modification of Condition 1 to allow amendments to previously approved plans

Location: 32 Hillgate Gedney Hill Spalding

Terminal Date: 13th December 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
11	Distribution of New Housing
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2 - Achieving Sustainable development
Section 3 - Plan Making
Section 4 - Decision Making
Section 5 - Delivering a Sufficient Supply of Homes
Section 11 - Making Effective Use of Land
Section 12 - Achieving Well-Designed Places
Section 14 - Meeting the Challenge of Climate Change, Flooding and Coastal Change
Section 15 - Conserving and Enhancing the Natural Environment
Section 16 - Conserving and Enhancing the Historic Environment

Representations:

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

RESIDENTS	1	0	0	1
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CASE OFFICER ASSESSMENT

Proposal

Section 73 of the Town and Country Planning Act 1990 allows the variation or removal of conditions associated with a planning permission. Under this Section, this planning application seeks modification of condition 1 attached to application H07-0815-20 to allow the following:

- AC unit installed on the rear elevation
- Exclude left hand side chimney

The original application was for the erection of a two storey dwelling.

Site Description

The site is located on the western side of Hillgate just north of the junction with Highstock Lane. The former Red Lion public house (grade II listed) is situated to the south, which is currently being converted to residential. A grass strip and electricity sub-station are located to the north-east, plus grazing land to the rear (west). A pair of semi-detached houses (no's 28 and 30) are situated beyond and a bungalow (no 26) to the north-west at the rear. Bungalows are located opposite. An outbuilding is located to the rear of the site which is nearing completion, as is the dwelling in question.

Site History

H07-0987-22 - Erection of double garage/store/shed (part retrospective) - approved under H07-1040-19. Modification of Condition 1 to allow amendments to previously approved plans - Pending consideration

H07-0815-20 - Erection of two storey dwelling - retrospective - Approved

H07-1040-19 - Erection of double garage/store/shed (part retrospective) - Approved

H07-1162-17 - Full - Proposed two-storey dwelling, 34 Hillgate, Gedney Hill - Approved

Consultation Responses

Residents

2no letters of representation have been received siting the following concerns:

- The build has changed numerous times since the original permission
- Conditions attached to the previous permission have not been complied with
- Removal of the second chimney will alter the street scene significantly
- The site plan supplied shows a 1.8m high close boarded fence on the southern boundary, however, a significantly higher wall has now been constructed
- Noise concerns from the air conditioning unit

Planning Considerations

Policy/principle

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is inside Gedney Hill Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the SELLP indicates that within Minor Service Centres, including Gedney Hill, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps to meet the service needs of other local communities. Development will normally be limited to allocated and committed sites and infill.

The proposal falls within the category of infill and satisfactorily complies with Policy 1 of the SELLP.

Character/appearance

Paragraph 130 of National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting. Paragraph 197 of the NPPF states that local planning authorities should take account of the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation.

Policies 2 and 3 of SELLP 2019 amongst other matters seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. Policy 29 of the SELLP states that development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets including conservation areas.

The current application proposes an AC unit on the rear elevation of the previously approved dwelling and to exclude the left hand side chimney previously approved.

A local resident has objected to the proposal on grounds that the removal of the second chimney will alter the street scene significantly. The concerns are noted, however, properties in the immediate vicinity vary in appearance and it is not considered that removal of one of the chimneys unacceptably alters the overall appearance of the dwelling or the street scene.

With regards to the AC unit, given its location to the rear of the site it is not considered to unacceptably impact on the street scene. In addition, given its modest size it appears as a minor addition to the existing rear elevation and does not appear overly prominent.

As such the development is considered acceptable in terms of its impact on the character of the area and the adjacent listed building therefore it accords with Policies 2, 3 and 29 of the SELLP and the Sections 12 and 16 of the NPPF.

Amenity

Paragraph 130 of National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions. Furthermore Policy 30 states development proposals will not be permitted where they would lead to unacceptable adverse impacts by way of noise.

Concerns have been raised by a local resident with regards to noise from the new air conditioning unit. The concerns are noted, however, the closest dwelling is located approximately 15 metres from the air conditioning unit therefore it is not considered to result in any unacceptable impact on neighbouring amenity. In addition, given the unit only serves a single residential dwelling and by virtue of its modest size it is not considered that any unacceptable levels of noise would result from this.

As such the proposal accords with Paragraph 130 of National Planning Policy Framework (2021) and Policies 2, 3 and 30 of South East Lincolnshire Local Plan (2019).

Parking/Highway safety

Access arrangements are similar to those approved by virtue of planning permission ref. H07-1162-17. Space would be available for the parking of at least 3 vehicles, as required by Policy 36 of the

Local Plan. LCC Highways has previously raised no objections on highway safety grounds and the current proposal is not materially different in this respect.

The proposal satisfactorily complies with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan, 2019 in terms of highway safety/parking issues.

Flood risk/drainage

The site is located within Flood Zone 1 (Low Risk) on the Environment Agency Maps. It is also within an area designated as no hazard with the South East Lincolnshire Strategic Flood Risk Assessment. The proposal therefore satisfies the sequential test.

The applicant has previously indicated that foul water would be disposed of to a septic tank along the site's frontage and surface water to a 15,000 litre rainwater harvesting system, with overflow into a soakaway to cater for storm events. This conforms with Policy 4(e) of the SELLP, which recommends the use of sustainable drainage systems (SUDs). However, more specific details are required to ensure that the systems operate satisfactorily, which also falls within Part H the Building Regulations. If subsequent problems were to occur they could be addressed under separate environmental legislation.

Other matters

Concerns have been raised by local residents that work has already commenced on the building without planning permission and the build has changed numerous times since the original permission and that the conditions attached to the previous permission have not been complied with. The concerns are noted, however, this is not an offence providing retrospective planning permission is obtained.

In this instance retrospective permission is sought for the details which were conditioned under the original planning permission - conditions 4 (white rendered walls), 5 (Spanish natural roofing slate), 6 (timber front door), 7 (timber sash windows on front elevation), 8 (white or cream painted door/window frames), 9 (black plastic rainwater goods), 12 (soakaway & rain harvesting).

With regards to condition 4 the property does not appear to have been fully rendered in white yet therefore this condition will be attached to this permission. It appears Spanish Natural roofing slate has been used on the roof therefore condition 5 has been complied with. A timber front door has been installed, timber sash windows on the front elevation, white door/window frames and black plastic rainwater goods. These are considered to be acceptable.

With regards to condition 12 the submitted details are not sufficient therefore this condition has been re-imposed. Full details of the proposed soakaway system for the disposal of surface water from the development hereby permitted, including percolation test results are required. These must include the calculations undertaken to determine the volume of storage required.

Concerns have also been raised that the current site plan shows a 1.8m high close boarded fence on the southern boundary, however, a significantly higher wall has now been constructed which is not shown. The concerns are noted, and this will be forwarded to the Planning Enforcement Team to follow up and the applicant will be asked to submit a separate application for this.

Planning Balance

The proposal will not materially harm the character or appearance of the locality, the amenity of nearby residents or result in parking/highway safety or flood risk issues. The planning balance is therefore considered to be in favour of the proposal.

Conclusion

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Taking the above into account, the amendments are deemed to comply with Policies 1, 2, 3, 4, 11, 29, 30, 31, 36 and Appendix 6 of the SELLP, 2019 and Sections 2, 3, 4, 5, 8, 11, 12, 14, 15 and 16 in the National Planning Policy Framework, 2021.

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.

RECOMMENDATION

That the application be approved under delegated powers.