

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H07-0987-22 **Applicant:** Mr A Zdroba

Proposal: Erection of double garage/store/shed (part retrospective) - approved under H07-1040-19. 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
29	The Historic Environment
30	Pollution
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 8. Promoting healthy and safe communities
Section 12. Achieving well-designed places
Section 14. Meeting the challenge of climate change, flooding and coastal change
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

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 H07-1040-19 to allow the following:

- AC unit installed on the southern elevation
- Fire escape window added on the southern elevation
- Render changed to white
- Solar panels on roof
- New composite garage door

The original application was for the erection of a double garage/store/shed to the rear of the site.

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. The garage/store/shed has been built towards the rear of the site and is nearing completion.

Site History

H07-0986-22 - Erection of two storey dwelling - retrospective - approved under H07-0815-20. 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
- The proposed garage door will not match the wooden front door of the house
- The surface water drainage condition has not been discharged
- Risk of flooding of neighbouring properties due to the position of the guttering
- The windows do not match the house
- Does the fire escape window meet the requirements for a fire exit?
- Is there a need for air conditioning in a garage/store?

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 building itself is sited just outside Gedney Hill Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 (Spatial Strategy) of the SELLP indicates that new development outside a defined settlement limit should be permitted if it is necessary to such a location and/or it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

However, the Local Plan makes provision for frontage residential development in this location and the building/additional strips of land would be ancillary to such development. Moreover, the proposed building is almost entirely within the residential curtilage the subject of planning permission reference H07-1162-17. The applicant has indicated that it would be used solely for a purpose incidental to the enjoyment of the dwelling (not commercial). Consequently, the proposal would not materially conflict with the spatial strategy of Local Plan Policy 1.

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 its 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 proposed the addition of an AC unit on the southern elevation, a new fire escape window on the southern elevation, render of the building changed to white, solar panels on the roof and change garage door.

A local resident has objected to the proposal on grounds that the proposed garage door and windows do not match the house. The concerns are noted, however, given the building is set significantly back from the road, the building is not considered to be prominent in the street scene. As such the proposed use of render in a white finish is also considered acceptable. The white colour finish is more in keeping with other out buildings in the immediate vicinity. The proposed AC unit, solar panels, new fire escape window and new garage door are considered minor features and do not unacceptably or significantly change the overall appearance of the previously approved building.

As such the development is considered acceptable in terms of its impact on the conservation area and the character of the existing dwelling and therefore 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.

The proposed changes are considered fairly minor in terms of their impact on neighbouring amenity. The only change which may impact neighbouring amenity is the new fire escape window. The proposed window would face the former Red Lion public house (grade II listed) which is situated to the south of the site and is currently being converted to residential. A condition has been attached to the decision requiring this window to be obscure glazed in order to avoid overlooking or loss of privacy to future residents of this site.

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).

Highway issues

The access remains as previously approved. The building is set well back on the plot so ample on site parking would still be available. 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

The proposal is a householder scheme so the proposal is not subject to the sequential or exceptions tests. In any case, 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. Moreover the ground floor would be used as a garage/store and not as habitable accommodation.

The proposal satisfactorily complies with Policy 4 of the South East Lincolnshire Local Plan, 2019 in terms of flood risk.

Drainage

The applicant has previously indicated that surface water would be disposed of to a 15,000 litre rain water harvesting system. However, no details of be given of an outfall in the eventuality of a storm event. As such a condition has been attached to the decision for these details to be submitted and approved at a later stage.

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. However, this is not an offence providing retrospective planning permission is obtained.

With regards to whether air conditioning is required for a garage/store there are no restrictions on the specification of ancillary outbuildings.

Concerns have also been raised with regards to the position of the guttering and risk of flooding of neighbouring properties. This is noted, however, the suitability of guttering would be checked by Building Control.

With regards to concerns that the surface water drainage condition has not been discharged. This is noted, and the condition has been attached to this permission and will be monitored by planning enforcement to ensure it is discharged before the building is brought into use.

Concerns have also been raised as to whether the fire escape window meets the requirements for a fire exit. The concerns are noted, however, this would be checked by Building Control at the Building Regulations stage.

Planning Balance

The proposal will not materially harm the character or appearance of the locality or the amenity of nearby residents to such an extent that would warrant planning permission being refused. 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, 29, 30, 36 and Appendix 6 of the SELLP, 2019 and Section 2, 3, 4, 8, 12, 14 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.