

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0106-25 **Applicant:** Miss K Baker
Proposal: Conversion of annexe (approved under H09-0068-15) into living accommodation integral to main dwelling
Location: 57 Battlefields Lane South Holbeach Spalding
Terminal Date: 30th April 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This proposal comprises a submission under Section 192, relating to a Lawful Development Certificate (proposed) for the conversion of an annexe, which was initially granted planning permission under H09-0068-15, into living accommodation to be utilised as part of the main dwelling of 57 Battlefields Lane South.

The submitted application comprises:

- An Application Form
- A Site Location Plan
- Internal Photographs
- A Copy of Original Plans, as approved under reference H09-0068-15
- A Floor Plan, illustrating the internal alterations, comprising the 'blocking-up' of openings and creation of openings.

Site Description

The site is located within the defined settlement boundary of Holbeach as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP).

The application site lies to the north of Battlefield Lane South, and comprises a semi-detached dwelling, located within an area predominantly characterised by residential properties.

History

H09-0068-15 - Single-storey extension to form annexe accommodation (retrospective) - Approved

Consultation Responses

No consultation responses received.

Planning Considerations

Relevant Statutory Provisions

In relation to proposed uses or development, Section 192 of the Town and Country Planning Act, 1990, provides that:

(1) If any person wishes to ascertain whether-

(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall-

(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d) specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Furthermore, Section 3 of the Town and Country Planning (Use Classes) Order, 1987 (as amended) provides that:

(1A) Subject to the provisions of this Order, where a building or other land is situated in England and is used for a purpose of any class specified in - (a) Part B or C of Schedule 1, or (b) Schedule 2, the use of that building or that other land, or if specified, the use of part of that building or the other land ("part use"), for any other purpose of the same class is not to be taken to involve development of the land.

(2) References in paragraph (1) and (1A) to a building include references to land occupied with the building and used for the same purposes.

(3) A use which is included in and ordinarily incidental to any use in a class specified in Schedule 1 or 2 is not excluded from the use to which it is incidental merely because it is specified in Schedule 1 or 2 as a separate use.

Evaluation

The applicant has provided the following information:

- An Application Form
- A Site Location Plan
- Internal Photographs
- A Copy of Original Plans, as approved under reference H09-0068-15
- A Floor Plan, illustrating the internal alterations, comprising the 'blocking-up' of openings and creation of openings.

The planning history for the site has been investigated. As detailed, no planning application was submitted or can be retrieved in relation to the existing built form and its use as main living accommodation as opposed to an annexe, as described within this lawful development application.

Subsequently the Local Planning Authority has not granted permission for this development. Permitted Development rights had not been removed by any previous permissions, including that which had permitted the extension of the built form, to be used as an annexe.

The Town and Country Planning Act (1990) sets out that there are two main types of "development". These being 'operational development', such as the erection of a building, and the other is a 'material change of use of land'.

In this case, the predominant nature of the proposal relates to the use of the existing built form, in its entirety, as a conventional residential dwelling. This would result in changes to the internal layout of the built form, allowing for the conversion of the previously permitted annexe, as approved under reference H09-0068-15, to living accommodation which would be utilised by the occupants of the host dwelling, as a conventional dwellinghouse.

For clarity, the Town and Country Planning (Use Classes) Order 1987 (as amended) defines the Use C3 (dwellinghouses) as follows:

Use as a dwellinghouse (whether or not as a sole or main residence) by-

- (a) a single person or by people to be regarded as forming a single household;
- (b) not more than six residents living together as a single household where care is provided for residents; or
- (c) not more than six residents living together as a single household where no care is provided to residents (other than a use within Class C4).

The current use of the property, No.57 Battlefields Lane South, in its current form, is C3 (a) and the proposal would not alter the use of the existing dwellinghouse. The previous use of the additional built form as an annexe as previously permitted, with a specific requirement for this to be used in relation to the host dwelling, would not alter the lawful use of the site as a C3 (a) dwellinghouse.

This submission seeks to establish that the proposed conversion of an approved annexe into living accommodation, to be used for the sole purpose of the occupants of the dwellinghouse, would not require a planning application as it would not result in a material change of use. In light of the above, it is evident that the current use of the site, comprising that which includes the additional built form of the annexe, is as a C3 (a) dwellinghouse. The use of the existing built form which comprises the annexe, as additional living accommodation for the host dwelling, would not constitute a material change of use.

It is also noted that, in order to enable the current annexes suitable use as further living accommodation for the host dwelling, alterations are required. These changes could be considered to constitute 'operational development' in the form of 'blocking-up' of windows/doors. Notwithstanding this, these internal alterations would be considered permitted development should they be viewed as 'operational development' and as such, would not require the submission of a formal planning application.

Based on the above, the proposed use of the existing annexe as additional living accommodation for the host dwelling, ultimately changing the existing annexe to further conventional living accommodation, would not constitute a material change of use and the proposed alterations, to enable this change, would not require a formal planning application, through either not constituting operational development or, where this would be considered 'development', would be '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.

Conclusion

The proposal as submitted, resulting in the use of the existing annexe as additional living accommodation, would not constitute a material change of use and the proposed alterations, to enable this change, would not require a formal planning application, through either not constituting operational development or, where this would be considered 'development', would be 'Permitted Development'.

It is therefore considered that the certificate of lawfulness should be granted.