

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0207-24 **Applicant:** Mr M Andreini

Proposal: Erection of detached double garage - approved under H09-0877-19. Amendment to show position of telephone pole.

Location: 91 Battlefields Lane South Holbeach Spalding

Terminal Date: 5th April 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Section 12 - Achieving well designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is a non-material amendment application seeking permission to amend the plans to show the position of a telephone pole at 91 Battlefields Lane South. The original permission was for the erection of a detached double garage.

Applications must meet set criteria to be able to be completed under a non-material amendment, these are as follows -

- 1 - There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
- 2 - The amendment would not conflict with development plan policies or other Government guidance
- 3 - There would be no conflict with any conditions on the planning permission
- 4 - The proposal would not make worse any concerns raised by third parties when the original planning permission was considered
- 5 - The approved footprint/siting of the building will not be moved in any direction by more than 1 metre
- 6 - The proposal would not result in an extension to development already approved
- 7 - The height/volume of the building or extension would not be increased or significantly reduced
- 8 - The amendments must not result in a fundamental change in the design of the building

9 - The change does not amount to new works or elements which have not been considered by any environmental statement submitted with the original application

10 - Amendments to windows/doors/openings must not have any overlooking impact on neighbouring properties

11 - There would be no change to the description of development in respect of number of proposed units

Site Description

The site is located within the defined settlement boundaries of Holbeach as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). 91 Battlefields Lane South is a semi-detached property sharing its boundary with 89, the majority of the plots along this strip of road are all identical with similar sizes, designs and layouts. It is around 200m away from the A17.

History

H09-0877-19 - Erection of detached double garage - Approved

Consultation Responses

No consultation responses received.

Planning Considerations

Section 96A of the Town and Country Planning Act 1990 (introduced by S190 of the Planning Act, 2008) makes it possible to apply for a non-material amendment to existing planning permissions.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non-material amendments will be approved subject to meeting the aforementioned relevant criteria. Taking each point in turn it is considered that:

1 - There would be no change to the application site boundary and the proposal would be located within the red line boundary.

2 - The amendment would not conflict with development plan policies or other Government guidance. The initial assessment of the application is still valid in this regard.

3 - The proposal would not conflict with any conditions on the planning permission.

4 - The proposal would not make worse any concerns raised by third parties when the original planning permission was considered. No concerns were raised during the initial application stage.

5 - There would be no change to the approved siting.

6 - There would be no change to the scale of development.

7 - There would be no change to the height of the proposal.

8 - The proposal does not result in a fundamental change to the design.

9 - No environmental statement was submitted as part of this proposal.

10 - There are no amendments to windows/doors/openings and thus there would be no overlooking impact.

11. There would be no change to the description of development in respect of number of proposed units.

Positioning of telephone pole

The only change from the previous application is to show the positioning of the existing telegraph pole and its relation to the eaves of the garage. The gap from the wall to the telegraph pole is around 350mm and it should run plumb to the pole and perhaps slightly abut it. This means no changes are to be made to the garage in terms of design, size layout etc and no harm shall be caused to the amenity of the neighbouring properties. This paired with the assessment against the non-material amendment criteria means that the amendment is considered to be non-material.

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

It is considered that the amendment proposed (listed above) is acceptable and can be considered a non-material amendment.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.