

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0395-24 **Applicant:** Mr T Penny

Proposal: Proposed conversion of barn into residential dwelling - approved under H09-0701-23. Modification of Condition 2 to allow amendments to previously approved plans

Location: Rear Of 58 Spalding Road Holbeach Spalding

Terminal Date: 25th June 2024

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
10	Meeting Assessed Housing Requirements
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 2023

Section 2. Achieving sustainable development.
Section 5. Delivering a sufficient supply of homes.
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	1	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SHDC INTERNAL	0	0	1	0
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CASE OFFICER ASSESSMENT

Proposal

Full planning permission was granted in March 2023 for a change of use of an existing barn into a 3-bed dwelling (ref. H09-1004-22). The scheme was subsequently modified under S73 (ref. H09-0701-23). This application is for additional revisions, including the following:

- Alteration of approved rear first floor windows from obscure glazed (at least level 3) windows (top opening lights only) to obscure glazed (at least level 3) bottom opening sashes with 100mm restrictors.
- Addition of a utility box on the western elevation.

Site Description

The building (early 20th Century) is a former granary/stable block located at the rear of no. 58 Spalding Road, Holbeach. It is constructed in red brickwork with a slate roof.

Houses are situated to the southeast (no. 56) and south-west (no. 60) fronting Spalding Road. A converted barn is located to the west (no. 60a). Bungalows are situated to the north (nos. 4, 6 and 8 Fairfields).

History

H09-1004-22 - Full - Proposed conversion of barn into residential dwelling - Approved 14 March 2023.

H09-0701-23 - S73 - Proposed conversion of barn into residential dwelling - approved under H09-1004-22. Modification of Condition 2 to allow amendments to previously approved plans and Condition 6 to amend aluminium flush casements in lieu of timber - Approved 4 October 2023

Consultation Responses

Holbeach Parish Council

No objection.

Lincolnshire County Council Lead Local Highways and Flood Authority

No objections.

Environmental Protection

No comments.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively

and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The principle of a change of use of the existing barn into a dwelling has already been established. This application is solely to amend the scheme as indicated earlier in the report. The main issue therefore is the impact upon the character/appearance of the building/locality and also the amenity of nearby residents in terms of overlooking, lack of privacy, etc.

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the South East Lincolnshire Local Plan 2011-2036 (SELLP), adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Character/Appearance and Heritage Impact

Policies 2 and 3 of the 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. They are consistent with advice within the National Planning Policy Framework (NPPF), December 2023. Paragraph 135 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.

Policy 2 of the SELLP also states that sustainable development considerations should be met in relation to such matters as impact on the character and appearance of an area and historical buildings and heritage assets. Policy 29 (The Historic Environment) states amongst other matters that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework. Development proposals will be expected to conserve and enhance the character and appearance of designated and non-designated heritage assets.

The proposal is a means of retaining an existing early 20th Century building on site and bringing it back into active use. It is a non-designated heritage asset of some historic interest, with few periodic alterations. It has been sympathetically converted. The submitted elevation plan makes reference to aluminium flush casement (Anthracite Grey). However, the windows installed are grey uPVC as opposed to aluminium and it has not been indicated that they will be removed and replaced by aluminium. Nevertheless, they appear more sympathetic than standard white uPVC. On balance, the proposed alterations would not materially harm the historic character or appearance of the building or general locality.

Taking the above into account, it is concluded that the proposal satisfactorily accords with Policies 2, 3 and 29 of the Local Plan in this respect.

Amenity

Policies 2 and 3 of SELLP set out that residential amenity and the relationship to existing development and land uses are main considerations when making planning decisions. Paragraph

135 of the National Planning Policy Framework (Dec 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Houses are situated to the south-east (no. 56) and south-west (no. 60) fronting Spalding Road. A converted barn is located to the west (no. 60a). Bungalows are situated to the north (nos. 4, 6 and 8 Fairfields). Fencing is located along the rear and eastern boundaries and a combination of hedging and fencing along the western.

The first floor windows on the rear elevation facing 4, 6 and 8 Fairfields are associated with a bathroom and landing. The approved plans (ref. H09-0701-23) indicate that they would be obscure glazed (at least level 3) with top opening lights only. However, side hung obscure glazed windows have been installed that fully open, overlooking the neighbouring gardens at close range.

The submitted plans accompanying this application indicate that obscure glazed (at least level 3) bottom opening sashes will be installed with 100mm restrictors. However, no specification or sections of the windows have been submitted to clearly demonstrate that there would be no material overlooking of the neighbouring properties to the north. Consequently, the submitted plans/details do not meet the required tests of precision and enforceability due to this deficiency. To grant planning permission on that basis would risk unacceptable planning harm to the amenity of nearby residents.

In light of the above, the proposal as submitted does not accord with Policies 2 and 3 of the Local Plan in respect of their provisions on residential amenity.

Planning Balance

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The principle of a change of use of the existing barn into a dwelling has already been established. On balance, the proposed alterations would not materially harm the historic character or appearance of the building or general locality.

Regarding amenity, the submitted plans accompanying this application indicate that obscure glazed (at least level 3) bottom opening sashes with 100mm restrictors will be installed on the rear elevation at first floor level. However, no specification or sections of the windows have been submitted to demonstrate that there would be no material overlooking of the neighbouring properties to the north. Consequently, the submitted plans/details do not meet the required tests of precision and enforceability due to this deficiency. To grant planning permission on that basis would risk unacceptable planning harm to the amenity of nearby residents.

These concerns are such as to outweigh factors in favour of the scheme and the planning balance is not therefore in favour of the proposed 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

Taking the above considerations into account, the proposal fails to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, along with the identified sections contained within the National Planning Policy Framework (December 2023).

Recommendation

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