

Application No: H09-0654-23 **Applicant:** Mr & Mrs J Slator

Proposal: Proposed first floor side extension and ground floor front extension (retrospective) - approved under H09-0499-20. Modification of Condition 1 to allow amendments to previously approved plans.

Location: 21 Langwith Drive Holbeach Spalding

Terminal Date: 14th September 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
OTHER STATUTORY BODIES	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

This application is a Section 73A seeking to vary Condition 1 of planning approval H09-0499-20. This variation seeks to alter the roof, including raising the ridge height of the dwelling by approximately 500mm and changing the design on the front elevation. The previous approval,

granted approval for an L shaped roof with a small gable edged window on the principle elevation. This variation proposes a hipped roof on all sides and this gable window design will be removed by raising the eaves to be level with those of the host dwelling.

Site Description

The site lies within the settlement boundaries of Holbeach as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). The site faces the cul-de-sac end of Langwith Drive. The area is predominately characterised by properties that are two-storey detached houses with in-built garage. There is little mixture of designs, appearances and ages across the wider street scene. Subsequent extensions to the houses have delivered somewhat further variety.

To the front of the property, most of the surface is a gravelled driveway with turning point and a patch of lawn. There is a paved path running along the eastern boundary to the rear garden. A 1 metre high timber close board fence is on both sides of the drive, raising up to nearly 2 metres in the rear garden. Mature hedgerow and bushes supplements the boundary treatment to the west of the garden.

History

H09-0499-20 - Proposed first floor side extension and ground floor front extension (retrospective) - Approved

Consultation Responses

Historic Places Team Lincolnshire County Council

No comment.

Holbeach Parish Council

No objection.

Evaluation - Section 73

The proposal relates to the variation of condition 1 (Approved Plans) of S22/0176, through seeking permission under section 73 of the Act. 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 effect of granting permission would be to issue a new permission with condition 1 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development. Likewise, the red outline provided with the ordnance survey site location plan has not been altered and matches that of the initial submission.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Taking all of the above into account, the Local Planning Authority are content that the proposed amendments can be considered under a variation application, via a Section 73 application.

Planning Considerations

Layout, Design, Size and Scale

Paragraph 130 of the 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, that they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Furthermore, policy 3 accords with the provisions of section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

The materials for the proposed change will be the same as what was previously approved and therefore will match the existing property. The roof will be made of black concrete tiles and the brickwork will be red facing with render. Both of these will match the existing and be in keeping with the host dwelling and other houses within the area along Langwith Drive.

As mentioned, the ridge height will be raised by approximately 500mm with the height of the eaves also being raised to be level with the existing. It is not considered that these changes will appear out of place and disproportionate to No. 21. Other properties within the immediate area incorporate hipped roofs and therefore by making this change, it is considered that the proposal would better suit the area and comprise an enhancement to the street scene in comparison to that previously approved.

It is therefore ensured that the proposed changes to the approved plans do not stand out when compared to existing dwellings and does not create any visual discrepancies as it will match houses around the proposal. Overall, the changes will appear well blended into the locality.

It can be considered that the proposal is in accordance with Policy 2 as the design is appropriate to the area and improves the area, and Policy 3 through the use of high quality and inclusive designs. By according to these policies it can be considered that the balance is currently in favour of the application.

Impact upon Resident Amenity

Paragraph 130 of the NPPF amongst other matters, seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of the SELLP set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

There are no additional windows and therefore it is considered that there will be no overlooking concerns following approval on this application. The slight change to the window on the front elevation will not create any additional concerns as it will be facing the highway and provide neighbouring properties with adequate privacy.

It can be considered that the changes to the roof, by raising both the ridge and eaves height, will not cause an unacceptable impact by way of overshadowing. The changes are very minimal to what has previously been approved on site.

There are no windows on the eastern elevation of No. 19, the direct neighbour who could be

impacted the most by the development, and therefore there will be no loss of light concerns as a result of the changing of ridge and eaves height and by changing the roof design. It can be considered that some overshadowing could occur due to the proximity; however, any subsequent overshadowing is likely to be very minimal as to not result in an unacceptable impact to warrant refusal in this instance.

Naturally, after the initial construction, which itself would take place over a short period, minimal additional noise pollution would be caused as a result of the development. The proposal will also not be overbearing on the area due to it incorporating a similar design to that of the properties nearby.

The proposal is therefore in accordance with Policies 2 & 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Planning Balance

It is considered that the changes to the approved development at 21 Langwith Drive can be incorporated onto the site without materially harming the character and amenity of the locality. This application is in accordance with Policies 2 & 3 of the SELLP as well as Section 12 of the NPPF.

Conclusion

The recommendation is therefore for a delegated approval.

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.