

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0835-23 **Applicant:** Mr A John

Proposal: Extension & Alterations - approved under H11-0445-22. Modification of Condition 2 to allow amendments to previously approved plans.

Location: 30 Roman Bank Long Sutton Spalding

Terminal Date: 20th November 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
28	The Natural Environment
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 12 - Achieving well-designed places
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
SHDC INTERNAL	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is a Section 73A Continuation relating to the modification of Condition 2 of H11-0445-22. This modification involves changing the materials being used mainly on the side walls and brickwork detailing. There also some changes to the layout on the rear wall.

Site Description

The site is located on Roman Bank, in Long Sutton. The site is within the Long Sutton settlement boundary. It comprises a buff brick built detached bungalow. There is a single flat roofed garage to the side and a gravelled driveway to the front. A new two storey dwelling is under construction to the north and there are bungalows to the south. A grade II listed building is located opposite the site. The site backs onto open countryside.

History

H11-0445-22 - Extension & Alterations - Approved

Consultation Responses

South Holland District Council Conservation Officer

No objections.

Whilst the proposal site is adjacent to a Grade II listed building, I wish to raise no concerns from a conservation perspective. The proposed amendments to the design approved under H11-0445-22 are minimal in nature and therefore do not present an enhanced risk to the nearby designated heritage asset and as such, this proposal does not cause me to wish to alter or update the comments I issued under that application.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, there has been one letter of representation and is summarised as follows -

- This application would have a negative impact on the Grade II Listed Building, Bank House .

Evaluation

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, 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 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Evaluation - Section 73

The proposal relates to the variation of condition 2 (Approved Plans) of H11-0445-22, 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 and Consideration of the Character and Appearance of the Area

Paragraph 130 of the National Planning Policy Framework (NPPF), 2023 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.

This application proposes to change the materials that will be used on the extension and alterations, for the most part the materials will be the same as what has previously been approved however there are a few minor changes to the approved plans. On the front and rear walls a k-rend in ash white will be used, this is the same as what was already approved. The windows are also the same and these will be made of uPVC in anthracite grey, similarly the doors will be the same material in composite steel Chartwell green. Finally, the changes proposed to the materials are the sidewalls which will now be made of an anthracite grey cladding, this will match the materials and colour on the windows and therefore it is considered to not drastically stand out when compared to features on the dwelling. The brickwork detailing will be Vandersan Old Farmhouse where as before it was Audley Antique, these two bricks types are very similar in design and therefore the change is not significant enough to cause an issue on the street scene or locality. On the previous approved plans there was a two sets of French doors, this will now be changed into one set of bi-fold doors and as such the rear wall will extend longer into the centre of the wall to make the width of the door shorter.

These changes are considered to be very minimal and therefore not effect the street scene or locality and are therefore acceptable when compared to Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

There is no change to the height or size of the building as the proposal is to only change the materials being used with a slight alteration to the layout of the rear elevation, as such there will be no overlooking or overshadowing that will arise following the new development being carried out. It is therefore considered to be in accordance with Policies 2 & 3 in terms of the impact upon the residents nearby.

Heritage

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, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

In assessing proposals of this nature, the Local Planning Authority must ensure special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). No harm should be caused with the historical assets and their surroundings requiring to be preserved or enhanced.

Whilst not being situated within a Conservation Area the site sits opposite a Grade II Listed Building 'Bank House' and therefore comments from the Conservation Officer were needed. The proposal is considered to be acceptable in terms of heritage and when compared to Policy 29 of the SELLP and Section 16 of the NPPF. The Conservation Officer states in his comments that he has no objections due to *'The proposed amendments to the design are minimal in nature and therefore do not present an enhanced risk to the nearby designated heritage asset and as such, this proposal does not cause me to wish to alter or update the comments I issued under the previous application'*, the main premise of the comments from the previous application resulted in the overall view that *'As such the proposed changes are not considered significant enough to the setting of the listed building to constitute a reason for refusal'*. Therefore it is considered that the proposed changes to Condition 2 to change the materials is acceptable against Policy 29 of the SELLP and Section 16 of the NPPF.

Planning Balance

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

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

Conclusion

Taking the above considerations into account, the proposal is, for the most part, considered to be in accordance with Policies 2, 3 & 29 of the SELLP, along with the identified sections contained within the NPPF. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

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

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