

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-0441-22 **Applicant:** Mrs A Colwell
Proposal: Change of use to 2 independent dwellings
Location: 46 & 46a Hall Lane Moulton Seas End Spalding
Terminal Date: 23rd June 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 4 Decision Making
Section 5 Delivering a sufficient supply of homes
Section 12- Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks permission for a proposed change of use to two independent dwellings to the

property at 46 Hall Lane and the Annexe at 46a Hall Lane, Moulton Seas End.

Site Description

The site is located outside of a defined settlement and is classed as the open countryside, according to the South East Lincolnshire Local Plan, 2019.

The semi detached dwelling is located along a private road situated to the south west of the settlement of Moulton Seas End. The single storey annexe is attached to the east side of the original dwelling.

The rest of the dwellings down this part of the road, are also semi detached properties which are of a similar age and design, with no boundary treatment and a small driveway situated to the front of the boundary.

History

H13-0012-13- Approved on 28-02-13- Conversion of outbuilding to annexe.

H13-1058-01- Approved on 07-11-01- Proposed extension to side of house including double garage.

Consultation Responses

Local Highway and Lead Local Flood Authority- Does not wish to restrict the grant of permission.

Planning Considerations

Principle of development

The site is outside the Moulton Seas End settlement boundary as defined in the South East Lincolnshire Local Plan, 2019. Therefore, the site is located within the countryside. Policy 1 of the Local Plan states that "in the Countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits".

In this case, the proposal is for a change of use of the self-contained annexe to the existing dwelling (46 Hall Lane) to an independent dwelling. It is closely related to the main dwelling and is relatively small, with two bedrooms. Given the ancillary nature of the development, the proposal cannot readily be located elsewhere.

It would be considered that the proposed annexe would be inappropriate for occupation independent of the main dwelling by virtue of the substandard level of accommodation of the annexe and the physical relationship between the annexe and the main house which would create inadequate levels of residential amenity for the occupiers of both.

The application refers to renting the accommodation out since 2019 as a separate residential dwelling. The change of use of any building to use as a single dwellinghouse, no enforcement action may be taken after the end of the period of four years beginning with the date of the breach as set out in The Town & Country Planning Act 1990; Section 191 as amended by Section 110 of the Planning & Compensation Act 1991. Therefore, it would require enforcement action after this period.

Furthermore, independent occupation of the annexe would result in the formation of a new dwelling in the open countryside which would be contrary to national guidance contained in Section 4 of the National Planning Policy Framework, 2021 and Policy 1 in the South East Lincolnshire Local Plan, 2019.

Impacts upon Residential Amenity

Paragraph 130 of National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

There is only no.46 Hall Lane which is immediately adjacent to the proposed independent dwelling, and there will be a obscure glazed window from the rear side elevation of the property. This is not considered to be typical along a boundary, especially as the west side elevation wall would essentially be sited on the boundary between the two properties. It is therefore, considered that it would form an inadequate level of residential amenity for both properties in terms of privacy.

Therefore, the proposed change of use of 2 independent dwellings, would be contrary to Paragraph 130 of National Planning Policy Framework (2021) and Policies 2 and 3 of South East Lincolnshire Local Plan (2019).

Parking provision

In connection with Policy 36 of SELLP 2019, Appendix 6 sets out the minimum requirements for car parking provision 2 no. car spaces must be provided within the curtilage for dwellings up to 3 no. bedrooms. Upon my site visit, it was clear to see that at least three cars were parked on the front driveway of no.46a Hall Lane and therefore, it is clearly sufficient to accommodate the cars.

Therefore, the proposals will ensure appropriate car parking provision and comply with Appendix 6 of SELLP 2019.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposed change of use to 2 independent dwellings does not accord with Policy 1 in the SELLP, 2019, due to the proposal being tantamount to the formation of a new dwelling in the open countryside.

Conclusion

The recommendation is therefore for a delegated refusal.

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 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 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.