DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H14-1052-24** | **Applicant:** | **Mr A Taylor & Ms K Hardman** |
| **Proposal:** | Two storey and single storey extensions, alterations and external works - approved under H14-0659-20. Modification of Condition 2 to allow amendments to previously approved plans | | |
| **Location:** | 131 Spalding Road Pinchbeck Spalding | | |
| **Terminal Date:** | 19th February 2025 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

| | |
|---|---|
| 02 | Development Management |
| 03 | Design of New Development |

**National Guidance**

**National Planning Policy Framework December 2024**

Section 12 - Achieving well designed places

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| PARISH COUNCIL | 0 | 1 | 0 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 0 |
| WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |

CASE OFFICER ASSESSMENT

**Description of Proposal**

This is a section 73A application seeking amendments to condition 2 of H14-065-20 relating to approved plans. The following changes are proposed:

-Flat roof to become membrane rather than zinc roof

-Removal of render on north elevation to be replaced with brickwork to match
-Addition of south facing window

## Site Description

The property is a detached two storey dwelling situated north-west of Spalding, along Spalding Road. The dwelling is well set back from the road. The plot has a large grassed front garden, with no boundary treatment to the front of the property. There is a long driveway to the side of the dwelling which follows down to the rear garden. The rear garden is very spacious and is not overlooked by any properties from the south or west.

The dwellings situated along Spalding Road are of a variety of ages and design.

## Relevant History

Proposal site

H14-0659-20 - Full. Two storey and single storey extensions, alterations and external works. Approved 06-10-20

H14-0620-21 - Condition discharge. Details of archaeology investigation (Conditions 3, 4 & 5 of H14-0659-20). Approved 28-09-21

Adjacent sites

H14-1218-21 - Full. Hybrid planning application seeking full planning permission for 100 new homes, landscaping and infrastructure and outline planning permission (all matters reserved except access) for up to 300 new homes, landscaping and infrastructure. Approved 13-10-23.

## Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Pinchbeck Parish Council

Support - in keeping with the street scene.

Welland and Deepings Internal Drainage Board

"If at any point in the future soakaways are not used for surface water disposal, then I would wish to be reconsulted at that time."

Public Representations

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.

## Key Planning Considerations

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

The proposal relates to the variation of Condition 2 of H14-0659-20 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 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance (PPG) 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.

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 effect of the change will be significant".

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as a sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within Spalding, development within this location is considered appropriate. In any event, the principal of development was established under H14-0659-20, and therefore, there is no need to re-establish this here.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and

development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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.

These policies accord with the provisions of the NPPF and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The proposed removal of the render on the north elevation would not represent a significant change to the appearance of the property. Even within the previously approved plans, sections of the dwelling would not have been rendered; and therefore, this approach is consistent with the design.

Likewise, the change to roof material would have no significant impact upon the character of the dwelling. The mono-pitch roof component is well obscured from the visible realm, and therefore, its relative impact is low.

The proposed window would have no significant impact upon the character of the extension. A comparable window was located in a comparable location on the original dwelling, thereby establishing this feature on the site.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposed alterations to materials would have no significant amenity impact by virtue of their nature.

The additional window would offer views into the garden of Plot 12 of the scheme approved under H14-1218-21. That being said, these views would be at an oblique angle and would be a sufficient distance away from the plot to ensure any views are not overly detrimental to privacy.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is

considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Conditions

The host application, H14-0659-20, had five conditions imposed. To briefly summarise these conditions related to: timeframe for the development to commence, development being carried out in accordance with the approved plans, the submission and completion of a scheme of archaeology.

As development has commenced, there is no requirement to reimpose condition 1, as the requirements have already been met. Likewise, H14-0620-21 discharged conditions 3, 4 and 5 relating to archaeology, and therefore, it is unnecessary to reimpose these conditions. The proposed alterations to the window would have no tangible impact upon any potential archaeological remains on the site.

Finally, a modified version of Condition 2 of H1409659-20 should be imposed (now to be condition 1). This condition should be updated to reflect the newly approved plans. The imposition of this condition is consistent with the PPG and NPPF which both require development to occur in accordance with approved plans.

An informative condition has been added to confirm the development is exempt from the Biodiversity Net Gain condition under Schedule 7A of the Town and Country Planning Act, 1990.

## Planning Balance

As detailed above, 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 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, and provides adequate parking, whilst conforming with the SELLP and the provisions of the NPPF when viewed as a whole.

## 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 these factors into consideration, the proposal is considered to comply with Policies 2 and 3 of the SELLP, as well as Section 12 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

## Recommendation

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