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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference: H16-0355-19 **Date of Decision:** 27th February 2020

Applicant: Dr A Hunt
C/ O J B Architectural Design Services
24 Risegate Road
Gosberton
Spalding Lincs
PE11 4EZ

Location: 5 Henrietta Street Spalding

Description: Proposed first floor extension

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

1 The adjacent semi-detached property No. 4 has also a two-storey element that projects onto the rear garden as much as the footprint of the application house. Two windows on the side elevation lighten habitable spaces and face onto the application site. The separation distance between both elements is approximately 6 metres. Should the proposed first-floor extension be permitted, there would be an overbearing impact upon the residents of No. 4 on account of the aforementioned distance.

Policy 2 and 3 of SELLP include residential amenity as one of the main considerations of new development for delivering sustainable development and appropriate design.Paragraph 130 of NPPF, 2019 which states that "permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions".

On this basis, the proposal is considered to be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019. These seek, amongst other things, to ensure an acceptable standard of residential amenity. It would also be contrary to Sections 12 of

National Planning Policy Framework, 2019.

2 The frontage development where the proposed site is inserted extends from south-west and north-east. Given the location within the sun path, the intended first-floor extension might likely cast significant overshadowing to the residents staying in first-floor habitable spaces at the rear of adjacent property No. 4.

The Building Research Establishment document 'Site Layout Planning for Daylight and Sunlight: A guide to good practice 2011' sets out rule of thumb tests which determine whether or not further detailed daylight and sunlight tests are required. Where a development is opposite a window, a 25 degree test should be used. Upon conducting this test, it was found that the proposed extension would extend beyond the 25 degree line and so further checks are required. Consequently, a request for a daylight assessment was made, however no details have been forthcoming.

On this basis, the proposal is considered to be in conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019. These seek, amongst other things, to ensure an acceptable standard of residential amenity. It would also be contrary to Sections 12 of National Planning Policy Framework, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

The determined plans are:

134-01-DD01



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning

Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the

Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.