DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1022-21**	**Applicant:**	**Mr & Mrs D Povey**
Proposal:	Proposed annexe - part retrospective		
Location:	11 Birch Grove Spalding		
Terminal Date:	24th November 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
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

Sections 12 & 14 of the National Planning Policy Framework (2021)

12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
RESIDENTS	6	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

This is a part-retrospective application for a proposed annexe at 11 Birch Grove, Spalding. The proposal seeks to convert a building approved as a detached garage under H16-1079-19. The

proposed annexe measures approx. 6.1 metres by 4.5 metres, has an eaves height of 2.4 metres and a ridge height of 4.3 metres. The annexe externally differs from the approved garage because the garage door would become a window. Internally, the building would contain a wet room, sink and open space for a bed and living area. The purpose of the annexe is to provide care for a relative. Materials of construction remain the same as those of the approved garage, which are to match the existing dwelling.

SITE DESCRIPTION

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of a similar age and varying design. The site is in Environment Agency Flood Zone 3 and is in a "Danger for All" hazard area, with a maximum predicted flood depth of over 2 metres on the 2115 South Holland Strategic Flood Risk Mapping.

HISTORY

H16-0011-12

Full - Proposed first floor extension and alterations - Approved - 08 February 2012.

H16-0459-13

Full - Single-storey garage extension - Approved - 01 October 2013.

H16-0916-13

Full - First floor extension above garage including alterations - Approved - 25 November 2013.

H16-1079-19

Full - Alterations and extension - Approved - 05 December 2019.

CONSULTATION RESPONSES

Members of the public - 7 objections

"H16-1022-21 applies for annex to be used as a bedsit." - This is not correct and carries no planning weight.

The garage will be an independent dwelling - This is not correct and carries no planning weight.

"I also think that the two tier annexe is obtrusive" - This is not correct and carries no planning weight.

Loss of property value - This matter does not carry material planning weight.

A fence should be provided at the boundary with 9 Birch Grove.

The approved extensions are set too far forward - This does not carry any weight as the front extension has already been approved under H16-1079-19 and is being built in accordance with the approved plans.

The already approved extension sets a precedent - This does not carry any weight in the decision process for this annexe application.

Loss of open nature of street - This does not carry material weight in the decision process for this annexe application as a building of this size and scale has already been approved in this location.

Proximity of garage to pavement - This does not carry material weight in the decision process for this annexe application as a building of this size and scale has already been approved in this location.

Inadequate off road parking provision for the applicant.

Not enough people were consulted on the previous application - This does not carry material planning weight when determining the present application.

A planning notice has not been displayed - A site notice was erected on the 6th of October on a lamppost to the north of the site under What3Words reference ///being.punt.finds

PLANNING CONSIDERATIONS

Principle of development

The proposal site is within defined settlement limits and for a residential use on residential land. The principle of development in this location is acceptable. Other planning policies will be used against which to assess the proposal.

Assessment against SELLP Policy 2 - Development Management

This proposal is assessed against SELLP Policy 2 titled - Development Management. This policy states:

"Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:
1. size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses;
2. quality of design and orientation;
3. maximising the use of sustainable materials and resources;
4. access and vehicle generation levels;
5. the capacity of existing community services and infrastructure;
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
7. sustainable drainage and flood risk;
8. impact or enhancement for areas of natural habitats and historical buildings and heritage assets;
9. impact on the potential loss of sand and gravel mineral resources."

When assessed against the above relevant criteria the following can be observed:

1. The size, scale and layout of the building is not materially altered from that approved save for replacing the garage door with a window and facilities associated with an annexe being shown internally. No trees will be removed to facilitate this proposal. The character and appearance of the area is not considered to be materially impacted by the use of the building as an annexe rather than a garage.

2. The design is not materially altered save for replacing the garage door with a window. The orientation is not being altered.

3. The proposed window will be to match those of the existing dwelling. The tiles and brick of the garage remain as as approved, to match those of the existing dwelling.

4. The access and vehicle generation levels are not considered to be impacted by this proposal. The intended annexe occupant does not own or drive vehicles.

5. The proposal is not considered to impact existing community services and infrastructure.

6. The proposed annexe use is not considered to generate a noise, odour or disturbance impact. With regard to visual intrusion, there is not considered to be a material impact from the installation of a window which will face the driveway of 11 Birch Grove with a 1 metre boundary fence then the garden and driveway of 13 Birch Grove beyond which is already visible from the adjacent highway.

7. The site is in Environment Agency Flood Zone 3 and is in a "Danger for All" hazard area, with a maximum predicted flood depth of over 2 metres on the 2115 South Holland Strategic Flood Risk Mapping. This would ordinarily require all habitable accommodation to be at least 2 metres above existing ground level to ensure the building and occupants are safe over its lifetime, up to and including 2115. The annexe is required for emergency care of a relative and is not likely to be required into the distant feature when there is likely to be increased flood risk. It is considered that a temporary permission of four years is, on balance, acceptable in this location, with the building reverting to the approved garage design under application H16-1079-19, and the window being

replaced with the originally approved garage door.

This application satisfactorily accords with SELLP Policy 2.

Assessment against SELLP Policy 3 - Design of New Development

This proposal is assessed against SELLP Policy 3 titled - Design of New Development. This policy states:

All development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. 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.
Development proposals will demonstrate how the following issues, where they are relevant to the proposal, will be secured:
1. creating a sense of place by complementing and enhancing designated and non designated heritage assets; historic street patterns; respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area;
2. distinguishing between private and public space;
3. the landscape character of the location;
4. accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways;
5. the provision of facilities for the storage of refuse/recycling bins, storage and/or parking of bicycles and layout of car parking;
6. the lighting of public places;
7. ensuring public spaces are accessible to all;
8. crime prevention and community safety;
9. the orientation of buildings on the site to enable the best use of decentralised and renewable low-carbon energy technologies for the lifetime of the development;
10. the appropriate treatment of facades to public places, including shop frontages to avoid visual intrusion by advertising, other signage, security shutters, meter boxes and other service and communication infrastructure;
11. residential amenity;
12. the mitigation of flood risk through flood-resistant and flood-resilient design and sustainable drainage systems (SuDS);
13. the use of locally sourced building materials, minimising the use of water and minimising land take, to protect best and most versatile soils;
14. the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity, green infrastructure, flood risk mitigation and urban cooling;
15. the appropriate use or reuse of historic buildings.

When assessed against the above relevant criteria the following can be observed:

1. The size, scale and layout of the building is not materially altered from that approved save for replacing the garage door with a window and facilities associated with an annexe being shown internally. No trees will be removed to facilitate this proposal. The character and appearance of the area is not considered to be materially impacted by the use of the building as an annexe.

5. There remains adequate space on site for bin and cycle storage. The approved extension under H16-1079-19 mean that the property will have a total of six bedrooms. Despite the removal of the single space garage provision to facilitate the proposed annexe, there is space to the front of the site for in excess of three cars. Off road parking provision remains in accordance with Appendix 6 of the SELLP.

11. The proposed annexe use is not considered to generate a noise, odour or disturbance impact. With regard to visual intrusion, there is not considered to be a material impact from the installation of a window which will face the driveway of 11 Birch Grove with a 1 metre boundary fence then the garden and driveway of 13 Birch Grove beyond which is already visible from the adjacent highway.

12. The site is in Environment Agency Flood Zone 3 and is in a "Danger for All" hazard area, with a maximum predicted flood depth of over 2 metres on the 2115 South Holland Strategic Flood Risk Mapping. This would ordinarily require all habitable accommodation to be at least 2 metres above existing ground level to ensure the building and occupants are safe over its lifetime, up to and including 2115. The annexe is required for emergency care of a relative and is not likely to be

required into the distant feature when there is likely to be increased flood risk. It is considered that a temporary permission of four years is, on balance, acceptable in this location, with the building reverting to the approved garage design under application H16-1079-19, and the window being replaced with the originally approved garage door.

This application accords with SELLP Policy 3.

Assessment against SELLP Policy 4 - Approach to Flood Risk

This proposal is assessed against SELLP Policy 4 - Approach to Flood Risk. This policy states:

"Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted, where:

1. It can be demonstrated that there are no other sites available at a lower risk of flooding (i.e. that the sequential test is passed). The sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area, i.e. there is a specific need for the development in that location. The sequential test is not required for sites allocated in the Local Plan, minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site).

2. It can be demonstrated that essential infrastructure in FZ3a & FZ3b, highly vulnerable development in FZ2 and more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk.

3. The application is supported with a site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change and which:
a. demonstrate that the vulnerability of the proposed use is compatible with the flood zone;
b. identify the relevant predicted flood risk (breach/overtopping) level, and mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source;
c. propose appropriate flood resistance and resilience measures (following the guidance outlined in the Strategic Flood Risk Assessment), maximising the use of passive resistance measures (measures that do not require human intervention to be deployed), to ensure the development maintains an appropriate level of safety for its lifetime;
d. include appropriate flood warning and evacuation procedures where necessary (referring to the County's evacuation routes plan), which have been undertaken in consultation with the authority's emergency planning staff;
e. incorporates the use of Sustainable Drainage Systems (SuDS) (unless it is demonstrated that this is not technically feasible) and confirms how these will be maintained/managed for the lifetime of development (surface water connections to the public sewerage network will only be permitted in exceptional circumstances where it is demonstrated that there are no feasible alternatives);
f. demonstrates that the proposal will not increase risk elsewhere and that opportunities through layout, form of development and green infrastructure have been considered as a way of providing flood betterment and reducing flood risk overall;
g. demonstrates that adequate foul water treatment and disposal already exists or can be provided in time to serve the development;
h. ensures suitable access is safeguarded for the maintenance of water resources, drainage and flood risk management infrastructure.

Development in all flood zones, and development over 1 hectare in size in Flood Zone 1, will need to demonstrate that surface water from the development can be managed and will not increase the risk of flooding to third parties.

Change of use of existing buildings will be supported providing they do not pose an increase in risk to people. Change of use that would result in self- contained ground floor residential accommodation in areas of hazard rating 'danger for some', 'danger for most' and 'danger for all' will not be supported. In these areas unrestricted access to a habitable room above the flood level and an emergency evacuation plan will be required.

Caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding. Caravan, chalet, log cabin, camping and touring sites at risk of

fluvial flooding where there is a 'danger for most' and 'danger for all' will not be permitted. Occupancy of caravan, chalet, log cabin, camping and touring sites at risk of tidal flooding will not be permitted to open between 1st November in any one year and the 14th March in the succeeding year.

No development will be permitted within a 50m buffer from the toe of the raised Witham Haven Banks (flood defences), as shown on the indicative Plan contained in Appendix 10, to allow access for construction and maintenance.

Flood risk management infrastructure shall be provided at the strategic level, where development opportunities allow, to reduce the hazard and probability of flooding."

When assessed against the above, the following can be observed:

The site is in Environment Agency Flood Zone 3 and is in a "Danger for All" hazard area, with a maximum predicted flood depth of over 2 metres on the 2115 South Holland Strategic Flood Risk Mapping. This would ordinarily require all habitable accommodation to be at least 2 metres above existing ground level to ensure the building and occupants are safe over its lifetime, up to and including 2115.

In terms of the relevant criteria:

1. The proposal is for an emergency care annexe for a family member who requires on-site care. This annexe cannot reasonably be accommodated elsewhere in the district.

2. The proposal will provide a benefit to both the occupant of the annexe and the family to ensure that they are given the best possible care.

3. The application is not supported by a site-specific flood risk assessment.

Given that the building is only likely to be used in the short-term, a temporary 4 year planning permission could be considered appropriate.

PLANNING BALANCE

Whilst a permanent annexe on site could not be guaranteed safe for the lifetime of the development, it is considered that a change of use of the building for a temporary provision of an annexe for emergency care for four years is acceptable in this location. When the annexe use is no longer required or a period of four years elapses then the annexe must be converted to the garage approved under H16-1079-19. The building will not be materially altered from that originally approved and it is not considered that the use of the building as an annexe would materially impact the amenity of the surrounding area. This application is considered to accord with Policies 1, 2, 3, 4, 36 and Appendix 6 of the South East Lincolnshire Local Plan, 2019, as well as Sections 12 and 14 of the National Planning Policy Framework, 2021.

CONCLUSION

This application is recommended for a temporary approval of four years.

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.