

**DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H16-1047-25                      **Applicant:** Mr K Copping  
**Proposal:** Single storey rear extension to dwelling & garage including internal alterations - approved under H16-0828-25. Modification of Condition 3 relating to materials of external surfaces  
**Location:** 41 Saxon Close Spalding  
**Terminal Date:** 23rd December 2025

**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  
33                      Delivering a More Sustainable Transport Network  
36                      Vehicle and Cycle Parking  
APPENDIX 6                      Parking Standards

**National Guidance**

**National Planning Policy Framework December 2024**

Section 12 - Achieving well designed places

**Representations:**

	<b>Object</b>	<b>Support</b>	<b>No Obj.</b>	<b>Comments</b>
WARD MEMBER	0	1	0	0

**CASE OFFICER ASSESSMENT**

**Description of Proposal**

This is a Section 73 application, seeking to modify Condition 3 of H16-0828-25. It is proposed that the development would be finished in render, rather than brickwork to match the host. This is due to a lack of suitable brick match available.

**Site Description**

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. The site is located towards the south-east corner of the settlement, approximately 300m north of the southern bend in the Coronation Chanel.

Saxon Close is a late 20th century housing estate. The east side of the road is characterised by two-storey dwellings, whilst the west, where 41 Saxon Close is located, is characterised by bungalows. The dwelling is a gable ended, rectangular shaped dwelling, with a dog's leg off its south side where the garage is located. 41 Saxon Close, like many in the area, is constructed of pale red bricks.

### **Relevant History**

H16-0543-77 - Outline. Residential development off Childers Drove. Approved 14/09/77.

H16-1150-77 - Reserved Matters. Residential development (75 dwellings) off Childers South Drove. Approved 01/03/78.

H16-0828-25 - Full. Single storey rear extension to dwelling & garage including internal alterations. Approved 22/10/25.

### **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:

#### Cllr Ashby

Support - support this small extension

#### 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**

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#### Evaluation - S73

The proposal seeks to vary Condition 3 of H16-0828-25, 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 Conditions 2 and 3 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.

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 S73 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".

Paragraph 13 of the relevant section of the PPG states "In contrast to section 96A, an application made under section 73 of the Town and Country Planning Act 1990 can be used to make a material amendment by varying or removing conditions associated with a planning permission. There is no statutory limit on the degree of change permissible to conditions under s73, but the change must only relate to conditions and not to the operative part of the permission."

### Evaluation - Key Considerations

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.

As the proposal relates to a change in materials, it would only be design based considerations which would be impacted, with all other considerations made under H16-0828-25 unaffected. In line with the provisions of the PPG, these irrelevant matters should not be reconsidered here.

### Principle of Development

The principle of development was established under H16-0828-25. Due to the nature of the changes proposed, there is no requirement to visit the principle of development 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 proposal would result in approximately half of the dwelling being rendered. Whilst render is not typical of Saxon Close, it is typical of the wider Spalding area. On this basis, when looked at within a larger context, the proposal would not necessarily be incongruous.

Moreover, a comparable effect could occur through painting the house utilising the rights transferred under Class C, Part 2, Schedule 2 of the General Permitted Development Order, 2015. In light of this fallback position, a comparable level of change could occur irrespective of the outcome of this proposal.

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.

### Conditions

The conditions included within the original permission H16-0828-25 have been reviewed as part of this application. Conditions 2 and 3 would be required to be updated to reflect the new plans and materials. The proposal would have no bearing upon the other conditions placed upon the host.

### **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 proposed change in materials would not significantly or detrimentally impact upon the character of the area. No other matters considered within H16-0828-25 (including residential amenity, highway safety, or flood risk) would be affected by this proposal. The proposed alterations are considered acceptable.

### **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 1, 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.