DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H16-1139-23** | **Applicant:** | **Mr N Thompson** |
| **Proposal:** | Proposed Alterations & Extension including Re-positioning of Access - approved under H16-0075-23. Amendments to internal and external design including vehicular access to remain as existing | | |
| **Location:** | 44 Cley Hall Drive Spalding | | |
| **Terminal Date:** | 19th January 2024 | | |

**Planning Policies**

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

**National Guidance**

**National Planning Policy Framework 2023**

**Representations:**

| | Object | Support | No Obj. | Comments |
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CASE OFFICER ASSESSMENT

**Proposal**

This is a non-material amendment application seeking to make minor alterations to H16-0075-23. Generally, these alterations would bring the scheme more in line with the previously approved proposal (H16-0594-21). In total ten alterations are proposed, with the vast majority being internal alterations. They include:

1.Removal of Juliette balcony for bedroom one, with the existing window remaining in situ instead.
2.Removal of bedroom one's ensuite. Instead, the room shall remain as a bedroom.
3.The rear doors of the extension are to be reduced in size.
4.The proposed lounge in the extension is to be replaced with a fourth bedroom, ensuite, as well as male and female changing rooms.
5.The windowsill level of windows W21 and W22 will be raised.
6.The home office will become a carport, with the windows and doors positioned here being removed.
7.There will now be no change to the windowsill level at W4.
8.The vertical slate proposed on the northern elevation will be removed.
9.The vehicular access would return to the north of the site.
10.The photovoltaic panels would be removed.

It is of note that these changes would be considered permitted development.

**Site Description**

The property is within the settlement boundaries of Spalding. The character of the area is solely residential. The prevailing housing type is a two-storey detached dwellinghouse. A wide range of designs, appearance and ages have been observed across the area. The street pattern is based on cul-de-sac streets stemming from Halmer Gate as the main highway.

The site is long and rectangular. The property is two-storeys, standing within the building line along the western side of Cley Hall Drive. The plot benefits from a spacious, but irregularly shaped, rear garden. A low brick wall and pillars bound the site to the front. There is also a paved driveway leading to the side garage as well as some landscaping such as bushes and young trees.

## Planning History

H16-0075-23 - Full. Proposed alteration and extension to house including repositioning of vehicular access. Approved 21/02/23.

H16-0077-23 - Full. Proposed entrance gate and boundary fencing. Approved 21/02/23.

H16-0594-21 - Full. Proposed extension & alterations. Approved 15/07/21.

H16-0357-20 - Full. Proposed extension and alterations. Approved 24/04/20

H16-1060-18 - Full. Proposed extension and alterations. Approved 06/12/18

## Planning Considerations

Section 96A of the Town and Country Planning Act 1990 (introduced by S190 of the Planning Act, 2008) makes it possible to apply for a non-material amendment to existing planning permissions.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non-material amendments will be approved subject to the following criteria being met:

1.There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
2.The amendment would not conflict with development plan policies or other Government guidance
3.There would be no conflict with any conditions on the planning permission
4.The proposal would not make worse any concerns raised by third parties when the original planning permission was considered
5.The approved footprint/siting of the building will not be moved in any direction by more than 1 metre
6.The proposal would not result in an extension to development already approved
7.The height/volume of the building or extension would not be increased or significantly reduced
8.The amendments must not result in a fundamental change in the design of the building
9.The change does not amount to new works or elements which have not been considered by any environmental statement submitted with the original application
10.Amendments to windows/doors/openings must not have any overlooking impact on neighbouring properties
11.There would be no change to the description of development in respect of number of proposed units

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

Taking each point in turn, it is considered that:

1.There would be no change to the application site boundary and the proposal would be located within it (red line boundary)
2.The amendment would not conflict with development plan policies or other Government guidance. The initial assessment of the application is still valid in this regard.
3.The proposal would not conflict with any conditions on the planning permission.
4.The proposal would not make worse any concerns raised by third parties when the original planning permission was considered. No concerns were raised during the initial application stage.
5.There would be no change to the approved siting.

6.There would be no change to the scale of development.
7.There would be no change to the height of the proposal.
8.Despite the removal of vertical slate tiling, the proposal would not fundamentally change the appearance of the approved scheme.
9.No environmental statement was submitted as part of this proposal.
10.The amendment would not increase overlooking. Bedroom three is currently in situ, therefore its incorporation here would not increase overlooking. The removal of the windows to the former home office may reduce overlooking.
11.There would be no change to the description of development in respect of number of proposed units.

It is therefore considered that the proposal conforms to the above requirements and can be considered a non-material amendment.

Alteration to the Access

Addressing the alteration to the access specifically; under normal circumstances, an alteration to the site access would exceed the limits of a non-material amendment. However, as the change proposed here would involve reverting back to an existing access, it is considered that the change is non-material. During the consultation stage of the previous application (H16-0075-23) the Highway Department raised no objection to the alteration to access, stating that the change would be no less acceptable than its current position (i.e., the position proposed here). Safe access to the site is currently obtained via the access proposed here, as has been the case for a number of years. This has demonstrated that the access proposed here is suitable and ensures that the alteration does not worsen any comments raised by the Highways Department. The proposed reversion back to the existing access would not significantly impact upon the function or appearance of the site, instead bringing the proposal more in line with what exists currently. The alteration in access would conform to the eleven criteria which establish if an alteration is non-material. As such, it is judged that the alteration in site access is non-material.

## Conclusion

It is considered that the amendments proposed (listed above) are acceptable and can be considered a non-material amendment. The recommendation is for delegated approval.

## 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.