

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0167-24 **Applicant:** Mr & Mrs S Huntsman

Proposal: Proposed Dwelling - approved under H17-0873-18. Modification of Condition 2 to allow amendments to previously approved plans

Location: 72 Reservoir Road Surfleet Spalding

Terminal Date: 18th April 2024

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

- 5 - Delivering a sufficient supply of homes
- 12 - Achieving well-designed and beautiful places
- 14 - Meeting the challenge of climate change, flooding and coastal change
- 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL	0	0	0	1

DRAINAGE BOARD				
SHDC INTERNAL	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73 Continuation application at 72 Reservoir Road, Surfleet for modification of Condition 2 of H17-0873-18. This application seeks to amend the existing single storey double garage on the frontage and replace with a two storey double garage with an office and w.c at first floor level. The application form states that no other alterations are to be made to the dwelling, however rooflights on the frontage roof have been removed. These rooflights were to serve two en-suites and do not change any potential overlooking impact or the built character of the dwelling which is inhabited by the applicants.

The original garage was sited 1.093 metres from the eastern boundary at the nearest point, 8.054 metres from the southern boundary and 12.73 metres from the western boundary. The garage has an eaves height of 2.4 metres and a ridge height of 5.1 metres. The footprint measures 5.570 metres in length and 6 metres in depth.

The proposed garage would be sited 1.093 metres from the eastern boundary at the nearest point, 4.027 metres from the southern boundary and 12.53 metres from the western boundary. The garage has an eaves height of 3.84 metres and a ridge height of 6.51 metres. The proposed footprint measures 10 metres in length and 6.06 metres in depth. Two dormer windows are sited on the west facing roofslope, with a rooflight on the east facing roofslope. An entrance door will be sited on the western elevation. An alcove will be sited to the rear of the garage building to house a repositioned air source heat pump. Brick and tile is to match that of the previous approval.

A site visit was undertaken on Wednesday the 28th of February 2024.

SITE DESCRIPTION

The site is within the defined settlement limits of Surfleet and the surrounding area is characterised by linear development to the north of Reservoir Road of varying ages and design. Land to the north of the site is arable fields. 60 Reservoir Road is located to the west of the site with 74 Reservoir Road to the east. To the south beyond Reservoir Road is the River Glen and Spalding Golf Club. The western boundary is bordered by a 1.2 metre high close boarded fence with established trees and hedging beyond. The northern rear boundary is bordered by a 1.6 metre high timber picket fence. The southern frontage boundary is open, and the eastern boundary is bordered by a 1.2 metre high timber close boarded fence rising to 1.8 metres in height. The adjacent ground level to the east at 74 Reservoir Road is lower in height than that of the application site.

The site is predominately located in Environment Agency Flood Zone 1, however Flood Zones 2 is located along the rear boundary. The rear of the site is in a "Low Hazard" area, with a maximum predicted flood depth of 0.25 metres.

RELEVANT HISTORY

H17-0916-01

Full - Dwelling and garage - Refused - 29th October 2001 - Dismissed at Appeal - 19th July 2002.

H17-0322-15

Outline - Proposed house - Refused - 6th July 2015 - Dismissed at Appeal - 15th January 2016.

H17-1060-17

Outline - Erection of house and vehicular access - Approved - 27th December 2017.

H17-0873-18

Full - Proposed dwelling - Approved - 15th October 2018.

CONSULTATION RESPONSES

Initial Responses Received (Consultation period between 27th February 2024 to 19th March 2024)

Welland & Deepings Internal Drainage Board - 1st March 2024

"My previous comments made under H17-0873-18 still apply."

The comments on H17-0873-18 were:

"I note from the application form that foul water is to be served by a package treatment plant. If this is to discharge into any watercourse, an application would need to be submitted to the Board in advance."

Lincolnshire County Council - County Highways & SUDS - 13th March 2024

No objections - *"The garage size is being increased along with the parking area. The proposal will not have an adverse impact on the public highway."*

Surfleet Parish Council - 18th March 2024

"The modifications proposed to the original plans may impact the natural light currently enjoyed by the neighbouring property and should be carefully considered before any decision is made."

South Holland District Council - Environmental Protection - 19th March 2024

"No comments."

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, one letter of representation has been received.

This can be summarised as:

Proposed garage is now same scale as a two bedroom new build property.

Sets a development precedent.

Size of study is above a private persons needs.

The proposed garage now has its own entrance door and could potentially be used as a studio flat or Airbnb property.

Email from applicant - Received 10th April 2024

This can be summarised as:

"We have lived in your parish since 2018 at this property and in South Holland all our lives."

"We both work in professional positions in the local community. Our 2 children attend local schools."

Trees at boundary with 74 Reservoir Road already obstruct light.

Amended plans are no closer to 74 Reservoir Road. *"Just slightly taller"*

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Principle of Development and Sustainability

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

Impact on Residential Amenity/Land Users

Highway Safety and Parking

Flooding Considerations / Drainage

Biodiversity and landscaping

Outstanding matters from representation

EVALUATION

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is also able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Presumption in Favour

Paragraph 10 of the National Planning Policy Framework details that "so that sustainable development is pursued in a positive way, at the heart of the Framework is a presumption in favour of sustainable development (paragraph 11)".

Paragraph 11 expresses that for decision-taking this means: "c) approving development proposals that accord with an up-to-date development plan without delay; or d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Principle of Development and Sustainability

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. Applications under Section 73 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.

In term of section 73 applications, the Act states 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." The principle of development cannot be revisited by the Local Planning Authority and only matters relevant to the specific conditions can be considered.

In this instance, planning approval H17-0873-18 granted permission for a proposed dwelling and therefore, the principle of development is established.

The effect of granting permission would be to issue a new permission with a variation to the conditions of the approval that are relevant to that being applied for, together with any other relevant

conditions from the original permission, or subsequent relevant revisions since this permission.

This proposal seeks to make amendments in the form of an enlarged frontage garage. The proposed amendments would not change the description of development and the proposal can be considered under a Section 73 application.

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

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed places' and details 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 National Planning Policy Framework (December 2023), 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.

Development proposals should also ensure that developments 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 South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it 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 National Planning Policy Framework 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 amendment to the garage design is considered to have a material impact on the character of the site and surrounding area. The applicant has stated that the amended plans are no closer to 74 Reservoir Road. *"Just slightly taller"*. The eaves height is 60% higher at 3.84 metres than the previously approved height of 2.4 metres. The ridge height is 27.6 % higher at 6.51 metres than the previously approved height of 5.1 metres. Additionally the length of the garage projection is 79.5% larger at 10 metres than the previously approved length of 5.57 metres. This is a material rise in the height and massing of the garage projection. These new dimensions are considered to create a projection at scale that is akin to a two bedroom new build dwelling, sited only 4.02 metres from the highway.

The new dimensions of garage / office projection would create a material development precedent in the vicinity of the site by allowing a visual prominent two storey development adjacent to the highway that is sited significantly forward of other lines of frontage in the vicinity of the site.

No justification has been provided by the applicant or agent as to the significant increase in the scale of the garage building. Additionally, no details have been provided to justify why an office / study is essential in this location, and why it cannot be accommodated inside the existing dwelling or to the rear of the existing dwelling.

The design of the south facing first floor window of the study is considered to be out of keeping with the fenestration of the remainder of the dwelling. Whilst it is appreciated that the window design maximises natural light, no attempt has been made to relate the design to existing fenestration

design at the dwelling.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is not considered to be acceptable. The proposal would cause an adverse impact to the character or appearance of the area and would therefore not be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposed amendment to the garage design is considered to have a material impact on the amenity of neighbours and the surrounding area.

The proposal is considered to constitute overdevelopment of the front of the site. The overall height of the garage is 27.6% higher than the previous design and 79.5% larger in length. This proposal is considered to material visual impact on the surrounding area, by positioning development significantly forward of the line of frontage of properties to the east and west of the site.

The proposal is considered to generate a material overshadowing impact on the dwelling at 74 Reservoir Road to the east of the site. The eaves height is 60% higher at 3.84 metres than the previously approved height of 2.4 metres. The ridge height is 27.6 % higher at 6.51 metres than the previously approved height of 5.1 metres. Additionally the length of the garage projection is 79.5% larger at 10 metres than the previously approved length of 5.57 metres. This is a material rise in the height and massing of the garage projection.

The applicant in support of the application has stated that the trees at boundary with 74 Reservoir Road already obstruct light. These trees are not protected by preservation orders and can be removed at any time. Additionally just because a degree of overshadowing can be attributed to these trees, the statement from the applicant is not considered by the Local Planning Authority to justify a materially greater loss of light. This loss of light will impact the property from approximately midday onwards on a daily basis. The loss of light will be further exacerbated by the difference in site levels and finished floor levels between 72 and 74 Reservoir Road.

Due to the orientation of the fenestration on the garage / study building, as well as the adjacent boundary treatment, there is not considered to be a material overlooking impact on adjacent dwellings. Aside from the garage doors and access door, there is no other fenestration at ground floor level. These doors face the western boundary which is bordered by a 1.2 metre high close boarded fence with established trees and hedging beyond. This trees and hedging is not subject to a preservation order, therefore, if they were to be removed there is not considered to be a material overlooking impact from the ground or first floor west facing fenestration as they face the frontage of the site, which is largely visible from the highway at Reservoir Road. The first floor rooflight on the east facing roofslope serves a wc and is expected to be obscure glazed. This rooflight is approximately 1 metre above floor level. It is considered that this window should be limited opening to prevent a material overlooking impact to 74 Reservoir Road if opened.

The submitted plans also show a "repositioned" air source heat pump. No previous applications have shown an air source heat pump on any plans. The air source heat pump is already present on site adjacent to the eastern boundary. There are noise concerns with regards to this pump and no further information has been submitted to justify it's location or details as to noise generated by the appliance.

As detailed above, the scale and design of the proposal is considered to be such that there would be a significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is considered not to accord with the provisions of the

Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Furthermore, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

The proposed garage design retains two garage spaces and the area given to the hard landscaped permeable driveway has expanded southward to cover the extended garage building. The application still proposes a 5 bedroom dwelling, therefore the proposal accords with Appendix 6 of the SELLP as the site affords in excess of three off road parking spaces.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework (December 2023).

Flooding Considerations / Drainage

Section 14 of the National Planning policy Framework (December 2023) requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 1 and 2 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "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" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site is predominately located in Environment Agency Flood Zone 1, however Flood Zones 2 is located along the rear boundary. The rear of the site is in a "Low Hazard" area, with a maximum predicted flood depth of 0.25 metres.

The proposed Site Levels section of the Flood Risk Assessment (FRA) states "The level of the River Glen on 4th August 2015 was 2.89m OD and the level of Reservoir Road south of the site is 4.89m OD. The level of the site next to the road is 4.68m OD, and the site slopes down to a level of 4.25m OD approximately 5 metres further north. The site then slopes down to a level of 4.05m at the rear of the site. The fields behind the site are slightly lower at a level of 3.90m OD.

It is proposed that the finished floor level of the new building should be a minimum of 4.90m OD."

Within the approved Flood Risk Assessment under the section "Summary of Risk of Flooding to the Site" the diagram shows the 1 in 100 year flood level at 4.20 metres AOD with the floor level of adjoining house at 4.55 metres AOD. The levels of the land at the adjacent sites was not given in the approved FRA. Whilst it is considered that the approved levels successfully address flood risk they do allow for overlooking of the the side boundary with 74 Reservoir Road from the utility and WC windows. This matter cannot be addressed as the original application has been approved and the dwelling is already inhabited.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition under reference H17-0873-18, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan and the intentions of the National Planning Policy Framework (December 2023) in this regard.

Biodiversity and landscaping

In respect of the climate emergency, section 14 of the National Planning Policy Framework (December 2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

Policy 28 of the South East Lincolnshire Local Plan (2019) outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly greenspace will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposals shall provide an overall net gain in biodiversity.

As the proposal is a minor application there is a requirement to demonstrate a biodiversity net gain of 10% from the 2nd of April 2024. However, because the requirement to demonstrate a biodiversity net gain for minor applications commences for applications submitted on or after the 2nd of April 2024 this is not a requirement for this application. This is due to the application being accepted on the 22nd of February 2024. Landscaping and biodiversity does still remain of importance in local and national policy when assessing this application, with the proposal still expected to demonstrate a biodiversity uplift.

Whilst the need to demonstrate a minimum of a 10% biodiversity net gain is not a requirement for the application, it is considered that the application would need to demonstrate a satisfactory landscaping and biodiversity uplift layout that would constitute a betterment for the site. This is can be achieved via a number of measures such as ponds, and hedge / tree planting.

A landscaping condition would be required to ensure that the site can satisfactorily demonstrate a material biodiversity uplift in accordance with Policy 28 of the SELLP.

Outstanding matters from representation

*"We have lived in your parish since 2018 at this property and in South Holland all our lives."
"We both work in professional positions in the local community. Our 2 children attend local schools."*

The length of time that someone has lived in the district, and the profession positions that they hold does not carry material planning weight when assessing an application.

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 settlement of Surfleet. The development hereby proposed does generate material harm upon the character and appearance of the locality, as well as the amenity of nearby residents. Therefore, this Section 73a application does not conform with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework (December 2023) when viewed as a whole.

In this instance, there are material considerations that weigh against the proposal and as such, the planning balance is not in favour of the development.

CONCLUSION

Taking into consideration these factors, the proposal is not considered to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the Section 12 contained within the National Planning Policy Framework (NPPF) (December 2023). There are significant factors in this case that would outweigh the benefits of the proposal; therefore, in considering all the matters raised above the planning balance is not in favour of the proposal and the policies referred to above.

RECOMMENDATION

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

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.