DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H22-0539-25**	**Applicant:**	**Mr M Ezepue**
Proposal:	Proposed two storey side and single storey rear extensions with front and side brick boundary wall and railings. Approved under H22-0300-23. Modification of Condition 2 to allow amendments to previously approved plans		
Location:	45 Old Fendyke Road Weston Hills Spalding		
Terminal Date:	5th August 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 9 - Promoting sustainable transport
Section 12 - Achieving well designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This a Section 73 application seeking amendments to Condition 2 of H22-0300-23, relating to approved plans. The following changes are proposed:

-Creation of a two-storey extension to principal elevation to form entryway
-Increase in roof height of the approved side extension to be level with the host roof
-Creation of flat roof area to link gables on 2nd floor rear element
-Addition of doors/ Juliette balcony on rear 2nd floor
-Addition of skylight in 2nd floor
- Internal layout alterations - including reduction in garage space and creation of open plan family area

Site Description

The site is within the settlement boundaries of Weston Hills, as outlined within the South East Lincolnshire Local Plan, 2019. Old Fendyke Road is characterised by a linear arrangement of residential dwellings of varying ages, scale and design. Red brick construction is common, but there are some examples of the use of other materials. To the east, south and west of the site are residential dwellings, while to the north is open agricultural land.

The dwelling itself is a detached large dwelling, constructed of red bricks. It is characterised by its mansard roof, being one of three dwellings in the immediate area to have this design feature.

Relevant History

H22-0300-23 - Full. Proposed two storey side and single storey rear extensions with front and side brick boundary wall and railings. Approved 27/06/23.

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:

National Grid

No observations

Highway and Lead Local Flood Authority

"The proposal is for minor amendments to 2 that already has approval under H22-0300-23. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk."

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

Key Planning Considerations

Evaluation - S73

The proposal seeks to vary Condition 2 of H22-0300-23, 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 Condition 2 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.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Weston Hills which is classed as an "other service centre" within Policy 1. As such development will be permitted that supports Weston Hill's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within Weston Hills, development within this location is considered appropriate. In any event, the principle of development has already been established within H22-0300-23, and so does not need to be revisited 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 National Design Guide (NDG) provides further guidance on design matters for new developments. Broadly, the NDG discusses how well designed places should reflect their existing surroundings and characteristics. On this point, Paragraph 53 states: "Well-designed new development is influenced by: an appreciation and understanding of vernacular, local or regional character, including existing built form, landscape and local architectural precedents; the characteristics of the existing built form; the elements of a place or local places that make it distinctive". Paragraph 56 expands upon this stating "Well-designed places contribute to local distinctiveness. This may include: adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area; drawing upon the architectural precedents that are prevalent in the local area, including the proportions of buildings and their openings".

The changes proposed to the rear elevations appear to have no significant detrimental impact upon the character of the area. The rear first floor flat roof element is an unusual arrangement, which creates a degree of visual confusion to the rear of the dwelling. However, this element would only be visible from adjacent agricultural field and at oblique angles from the gardens of the two

neighbouring dwellings. As such, while the proposal may weaken the cohesiveness of the site itself, there would be no significant detrimental impacts upon the wider area. As such, this portion of the proposal is considered acceptable.

The proposed increase in roof height to the side extension; however, is considered to have a detrimental impact upon both the character of the area and the site itself. Currently, the ridge height is below that of the main dwelling, which creates clear visual subservience and reduces the visual impacts of this element. As a result, the existing arrangement prevents the extension, and resultant dwelling, from appearing overly large, dominant or bulky. Therefore, removing this element and increasing the height would have the opposite effect, resulting in the extensions appearing overly bulky and lacking visual subservience.

The proposed increase in roof height would result in a more homogenous and less visually appealing appearance, whilst also increasing the overall mass of the building. This would result in the development appearing overly large and bulky, leading to a harmful character impact. It would also result in the dwelling appearing more uneven, when the now off-centre entryway is considered, reducing the symmetry of the design and making the eastern portion of the dwelling appear bulkier.

The proposed two-storey extension to the principal elevation is also considered to have a harmful character impact. 45 Old Fendyke Road is one three dwellings which are characterised, partially, by small, rounded windows above their entrances. This proposed arrangement would result in the loss of this, installing a more modern feature which clashes somewhat with the existing character of the dwelling. The heavy use of glasswork proposed would be anomalous in the immediate area, which would result in the dwelling appearing as an outlier within its setting. The significant projection to the front of the dwelling would also create an unacceptable level of bulk when viewed from the side elevation. As such, it is considered that this element would fail to reflect existing design precedents, and would therefore be contrary to the provisions of Paragraphs 53 and 56 of the National Design Guide.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would have an adverse impact on the character and appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposed alterations are not considered to generate a harmful level of overshadowing. Shadow cast by the changes to the rear of the site and the frontage extension would fall wholly within the plot itself, preventing harm to the neighbouring dwellings. The increase in the side extension's ridge height is not so significant as to exacerbate the level of shadow cast upon the neighbouring dwelling.

Any views gained from the proposed doors on the 2nd floor would be from oblique angles, limiting their intrusiveness. The views gained from these doors would be no more intrusive than those which could be gained from the rear windows approved under the host application.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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,

following mitigation, would be severe, taking into account all reasonable future scenarios".

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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, 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 proposal would have no impact upon parking arrangements for the site.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

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 alterations to the scheme approved under H22-0300-23 are considered to have an unacceptable, harmful impact upon the character and appearance of the area. The increase in roof pitch would result in the dwelling appearing overly bulky and prominent within its setting. Likewise, the proposed front extension is considered to juxtapose the existing character of the area and dwelling, by introducing an unduly large and modern element which would be inappropriate in this area.

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 be contrary to Policies 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 refused under Delegated Authority.