

**BOSTON BOROUGH COUNCIL**

**Planning Committee – 15<sup>th</sup> December 2020**

Reference No: B/20/0384

Expiry Date: 10-Dec-2020

Extension of Time: None

Application Type: Full Planning Permission

Proposal: Proposed two storey side extension

Site: 51 South Parade, Boston, PE21 7PN

Applicant: Mr & Mrs Hunt

Agent: Peter Everton, E2 Design

Ward: West

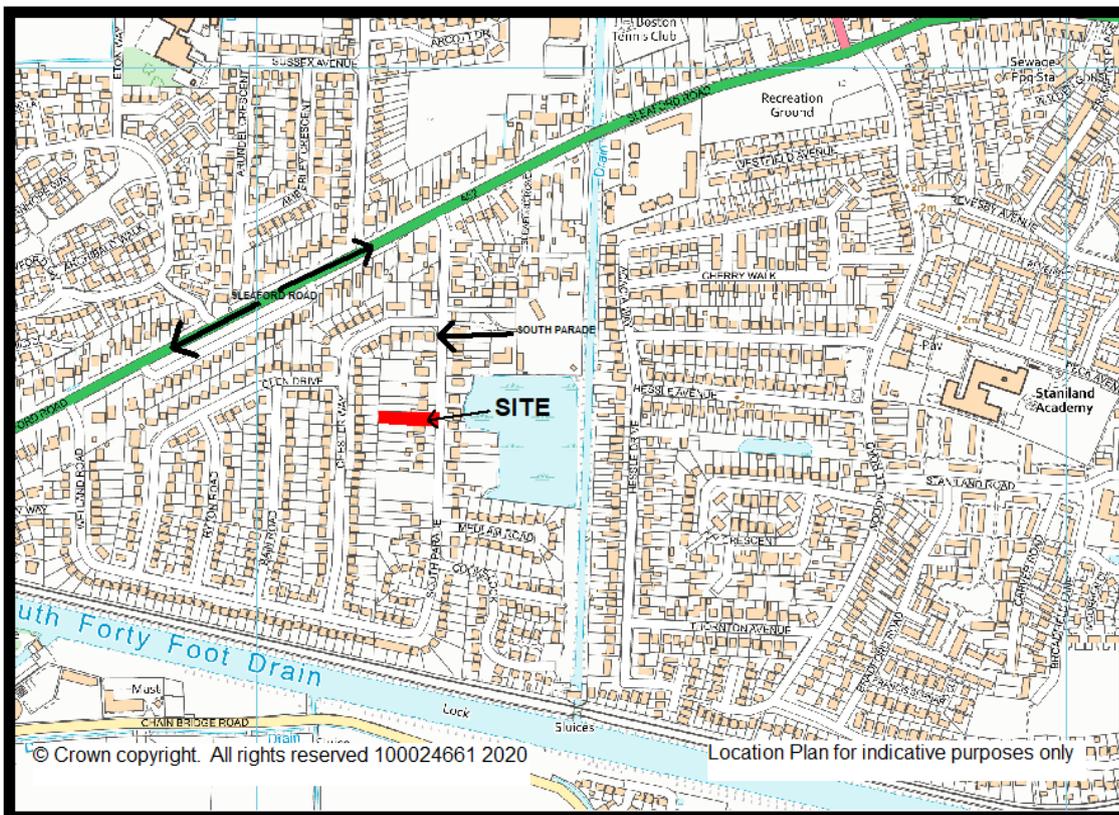
Parish: Boston Town Area Committee

Case Officer: Simon Eldred

Third Party Reps: 1 received

Link to Application: [B/20/0384](#)

**Recommendation: GRANT Planning Permission**



## **1.0 Reason for Report**

- 1.1 This item has been called in for consideration by the Planning Committee by Councillor Stephen Woodliffe, who states *“I consider that the prime material planning consideration here is the loss of natural light to the neighbouring property’s windows, since the other issues presented in the original plan which caused the original application to be refused seem to have been mitigated within the revised planning application. However, the loss of light is a material planning consideration which the Planning Committee must consider, and it must decide whether or not the potential loss of light is significant enough to reject the application.”*

## **2.0 Application Site and Proposal**

- 2.1 The application site is located on the western side of South Parade, Boston in a residential neighbourhood with existing dwellings to all sides. It contains:

- a detached two-storey dwelling, with rear extensions;
- a double garage, attached to the dwelling by a 1.6m-high wall; and
- domestic gardens to the front and rear.

- 2.2 It is proposed to:

- erect a single-storey extension on the rear (western) elevation. This extension will provide a sunroom, will measure approximately 5.3m x 2.3m in plan, and will stand approximately 3.4m high at the top of its mono-pitch roof (2.4m at eaves level). It will have two windows and a pair of glazed french-doors in its western elevation. No details are provided of proposed materials;
- demolish the existing double garage, and erect a two-storey extension on the side (southern) elevation. This extension will provide (on the ground floor) a garage, a boot room and a toilet; and (on the first floor) a bedroom with ensuite bathroom and dressing room. It will measure approximately 8.9m x 3.9m in plan and will stand approximately 6.8m in height (4.5m at eaves level). The extension would be between 0.8m and 1.1m from the common boundary. No details are provided of proposed materials. It will have a garage door and first floor window in its front (eastern) elevation, and (in its rear (western) elevation) a glazed door and two windows at ground-floor level, and two windows at first-floor level.

- 2.3 It should be noted that the proposal seeks to respond to the previous refusal of planning permission (see planning history below) by:

- reducing the ridge height of the side extension from approximately 7.9m to approximately 6.8m;
- revising the layout of the first-floor rooms within the side extension to locate the bedroom at the front and an en-suite and dressing room at the rear (in place of a bedroom at the rear and an en-suite at the front); and
- at first-floor level on the rear elevation of the side extension, replacing large areas of glazing (including glazed french-doors opening onto a juliet-balcony) with two significantly smaller windows.

### **3.0 Relevant History**

3.1 In 2008, full planning permission (B/07/0675) was granted for a single storey rear extension.

3.2 In 2020, full planning permission (B/20/0198) was refused for the erection of a two-storey side extension. The application was refused for the following reason:

*“...The proposal, by virtue of its size, scale, resultant massing and proximity to the dwelling immediately to the south (53 South Parade), and in combination with the inclusion of first-floor windows/doors/balcony in its rear elevation, will result in an inappropriate and un-neighbourly form of extension that will create an oppressive form of development which will have unacceptable impacts upon 53 South Parade and its amenities as a result of overshadowing, loss of light, loss of outlook, overlooking and privacy loss. As a consequence, the proposal is contrary to the provisions of Policies 2 and 3 of the South East Lincolnshire Local Plan 2011-2036...”*

3.3 In summary the previous proposals had a number of individual failings, which cumulatively led Officers to conclude that they were unacceptable.

### **4.0 Relevant Policy**

4.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the plan unless material considerations indicate otherwise.

#### **South East Lincolnshire Local Plan 2011-2036.**

The following policies are considered to be the most relevant to this proposal:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development;
- Policy 4: Approach to Flood Risk;

#### **National Planning Policy Framework**

- Section 2: Achieving Sustainable Development
- Section 12: Achieving well-designed places;
- Section 14: Meeting the challenge of climate change, flooding and coastal change

### **5.0 Representations**

5.1 As a result of publicity, an objection was received from the occupants of a neighbouring dwelling (53 South Parade), observing that *“just about every point raised in objection to the original plan ... is still in place. The points of overshadowing, dominance, visual intrusion and loss of natural light must all still be valid as the overall positioning and sizing of the proposed plans remain unchanged. The only alteration is the position of the bathroom to the rear but with two proposed windows the privacy issue we feel is questionable.”*

5.2 The applicant responded to the objection to argue that in summary:

- the proposed extension is not unusually close to the neighbouring dwelling, is reduced in height from the earlier proposals, and will not overshadow no. 53;
- dominance is not in itself grounds for refusal and has no legal grounds;
- rooms at the rear of the extension have been moved and rear windows will be obscure-glazed to ensure that the privacy of no. 53 is not affected;
- loss of light impacts will be minimal as there is already a hedge growing near the side windows, and the windows affected do not serve habitable rooms;
- the extension will have no impacts upon no. 53's outlook; and
- many similar extensions have been permitted nearby.

5.3 The objector later submitted a fuller objection, which can be summarised as:

- The biggest issue is the right to light. The primary natural light into the kitchen and the only natural light into the bathroom are both from the windows on the side elevation. Any two storey extension in that vicinity close to the boundary is going to reduce light values.
- Both windows in the side of the existing bungalow are historic and since original build.
- Previous proposals failed on other matters including:
- Privacy – which has been improved upon
- Overbearing – The physical mass of the building, certainly on the elevation adjacent to the bungalow remains virtually unchanged. It will still retain the same overbearing/overshadowing design as before.
- Position/proximity – as above, nothing of any relevance has changed.
- Outlook – The view from the side window in the bungalow (serving a kitchen) would be obstructed when currently it is not. Although it is accepted this is in part across the neighbour's property, there is also plenty of unobstructed daylight that gives both a reasonable outlook and provides daylight into the room. The proposals would result in an un-neighbourly relationship.

5.4 In turn, the applicants responded to the later objection which is summarised as follows:

- We have worked closely with our architect to ensure that the subsequent design met and complied with the observations from the previous planning application. Compromise has occurred.
- Right to light - The bathroom window has highly obscured privacy glass installed so the access to light is naturally diminished. There is a 6ft privet hedge less than 1m from the window, which distorts over  $\frac{3}{4}$  of the window's view so access to light is further depleted. The stated 'primary' kitchen window services a large open plan space, which is also serviced by other windows and large windows/doors at the back of the property. Access to light has been restricted for over 20years. Neither of these windows should be considered a 'principle' window on the property. Both windows are located on the side of property and service non-habitable rooms, which means they attract 'secondary' status to the windows at the front and rear the property.

There are numerous examples of adjacent properties in the local area, which echo the placement, and proximity of the proposed extension.

- Privacy – the observation is noted;
- Overbearing – The design has changed; there has been a significant drop in the height of the proposed extension. There are numerous examples of adjacent properties in the local area that echo the design and proximity of the proposed extension.
- Position/Proximity – Again, there are numerous examples of adjacent properties in the local area.
- Outlook – Noted but dealt with under right to light.
- Have sought at every opportunity to work with the Planning Office to ensure that we meet current planning guidelines and as previously mentioned.

## **6.0 Consultations**

6.1 Cadent Gas indicates that it has no objections.

## **7.0 Planning Issues and Discussions**

7.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations in regards to this application are:

- Impacts on the character and appearance of the area;
- Impacts upon neighbours' amenity; and
- Flood risk.

### Character of the area

7.2 Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area.

7.3 The proposed rear extension will not be visible from public vantage points, and will therefore have no impact upon the streetscape. In contrast, the proposed side extension is significant in scale, and will be visible from South Parade. Looking first at the relationship of the proposed side extension to the original dwelling, the design is attractive, and it will not appear out-of-character or scale with the existing dwelling. Whilst proposed materials are not identified, a condition could be applied to require the submission of details to ensure that the materials to be used will be appropriate to the original building.

7.4 In respect of the wider impact upon the streetscape, the proposed side extension will significantly reduce the size of the undeveloped gap between no's 51 and 53 – reducing the gap between the two buildings from approximately 6.7m to approximately 2m. Although this will be a significant change, the spacing of dwellings along South Parade is far from uniform, and existing examples can be found of gaps that are similar to that which will be created, e.g. between no's 55 and 57, or between no's 59 and 61, or between no's 50 and 52. In this context, it is considered that the proposals' impacts upon the character of the wider area will be acceptable and that they are compliant with Policy 2 in respect of this issue.

## Neighbours' amenity

- 7.5 Policies 2, 3 and 30 of the Local Plan require the amenities of neighbouring land users to be protected.
- 7.6 The proposed rear extension will have no impacts upon the dwellings to the north, east and south, given that it will be separated from these properties by other structures. Although it has windows and glazed French-doors in its western elevation, these windows/doors will be nearly 70m from the dwellings to the west (26 and 28 Chester Way). At this distance, it is considered that there will be no adverse effects upon these dwellings in terms of overlooking or privacy. Similarly, given the small scale of the rear extension and the distances involved, there will be no adverse impacts in terms of over-shadowing, loss of light, or harm to outlook.
- 7.7 The proposed side extension will have no impact upon the dwelling to the north, given that it will be separated from this property by other structures. The side extension will approach approximately 75cm closer than the original dwelling to the homes on the opposite side of South Parade (Lakeview and no. 36), but will still be more than 25m distant. Thus, although it stands two-storey in height and has a first-floor window looking towards them, it is considered that (at this distance) it will have no adverse effects upon these dwellings in terms of over-shadowing, loss of light, harm to outlook, overlooking, or loss of privacy. Equally, it is considered that the side extension (despite its height and windows looking west) will have no adverse impacts upon the dwellings to the west, given the distances involved.
- 7.8 The occupants of the dwelling to the south (53 South Parade) have objected, arguing that the proximity and scale of the side extension is unchanged from the earlier application and that the proposals will have harmful effects on their home in terms of overshadowing/loss of light, dominance/impacts on outlook, and overbearing. In their first objection, they also suggest that the side extension may have harmful impacts in terms of loss of privacy. Taking each potential impact in turn.
- 7.9 *Overshadowing/loss of light* - The side extension is proposed to be constructed opposite the two windows in no. 53's northern elevation – one window is obscure-glazed and serves a bathroom, and the other serves the kitchen – which is noted as being part of an open-plan room at the rear of the dwelling, which also provides living and dining space. The proposals involve the erection of a 4.5m high wall within between 1.1m-0.8m of the common boundary with no.53. When considering the impact on these windows, it must be recognised that whilst they may be original, these windows are north facing and, as such, will receive little sunlight. Furthermore, the availability of daylight to these windows is already constrained by a privet hedge, which is estimated to have a height of approximately 1.7m, and to be located a little over 1m from them. Daylight to the windows could be further constrained by the construction of a 2m-high barrier at the boundary, which could be implemented at any time without the need for planning permission.

- 7.10 The applicants' argue that the height of the extension has been reduced from that proposed in the earlier application (B/20/0198), and it is true that its maximum height has been reduced from approximately 7.9m to 6.8m. Whilst the (more important) height at eaves level is no different (4.5m), it is nonetheless accepted that the reduction in the extension's overall height and the change in roof arrangement will have some modest benefit in improving the availability of light to the windows.
- 7.11 Nevertheless, despite the reduction in the extension's overall height, it is still considered that (thanks to its height, mass and proximity) it will have impacts upon these windows in terms of overshadowing and loss of light. These are unavoidable if the extension is to take place in this area in the manner proposed. It is considered that these impacts will somewhat reduce the amenity enjoyed by the occupiers of 53 South Parade, and this weighs against the proposals. However, given that neither window serves a 'habitable' room, and given that the kitchen area receives light from significant areas of glazing in the dwelling's western elevation (via the open-plan lounge), it is considered that the scale of the harm that will be caused will be relatively minor. It is acknowledged however that the view from the kitchen window would change and would be obscured by the extension, the effect of which is discussed further below.
- 7.12 *Dominance/loss of views* – The relationship between the proposed extension and number 53 is discussed in detail in the preceding section.
- 7.13 Taking account of the aforementioned, as well as the views expressed both by the objector and the applicant, it is considered that the proposed extension will cause a greater impact upon the outlook from the kitchen window than the existing hedge or a potential 2m barrier - given that it will stand more than twice as high (though further away).
- 7.14 Although there is no standard definition of a habitable room and, in any event, kitchens may be considered as non-habitable rooms, it is considered that the effect on this window would still be significant as a result of the overall dominance and the fact that the views from this window would be on to a substantial side elevation. This would be a drastic change to the outlook from this area of the property.
- 7.15 Balanced against this is there is no right to a view (in planning terms); neither window serves a habitable room; and only one window provides a view. Therefore whilst it is considered that the extension (thanks to its height, mass and proximity) will have an impact upon the kitchen window in terms of the outlook that is available, the overall effect is considered to be mitigated to a degree and would be minor. Whilst the resultant relationship would undermine the amenities enjoyed by the occupiers of 53 South Parade, and this weighs against the proposals, the overall effect is considered to be minor in nature.
- 7.16 *Privacy* – The first-floor window in the front (eastern) elevation of the proposed side extension will offer peripheral views across no. 53's front garden, but it is considered that these will have no material impact upon amenity in terms of loss of privacy or overlooking. However, in its rear (western) elevation, the proposed side extension will have a glazed door and two windows at ground-floor level, and two windows at first-floor level.

It is considered that the ground-floor windows and door will not overlook no. 53's rear garden, given that existing boundary treatments will prevent views. In contrast, views towards no. 53's rear garden would potentially be available from the first-floor windows, over the top of the privet hedge, which separates the two properties. However, the applicants indicate that they intend for these windows to be obscure-glazed (although this is not indicated in either the application form or drawings). It is considered that, subject to a condition to require these windows to be obscure-glazed and non-opening, the proposals will have no adverse effects upon no. 53 in terms of loss of privacy or overlooking.

- 7.17 *Overbearing* – 53 South Parade is a bungalow which is estimated to stand approximately 2.4m-high at its eaves. The proposed extension will involve the erection of a 4.4m high wall within close proximity of its northern elevation, and the objectors argue that such a large structure in such proximity will have an oppressive impact upon the dwelling. It is considered, however, that such impacts are effectively an amalgam of the other issues considered above, and not a separate issue in their own right. Therefore, the harm in this respect has already been considered above.
- 7.18 *Conclusions on neighbours' amenity* – It is considered that, compared to the previous application (B/20/0198), the proposals are meaningfully improved. The previous concerns about impacts upon privacy and overlooking are resolved by amendments to the layout of the first-floor rooms (together with a proposed condition to ensure that rear first-floor windows will be obscure-glazed and non-opening); and the reduction in the side extension's overall height will (to some extent) improve the availability of light to no. 53's northern windows.
- 7.19 Nonetheless, it is considered that the proposals will have some harmful impacts upon the amenity of the neighbouring dwelling at 53 South Parade. The proximity and height of the extension will undoubtedly have some negative impacts on no. 53's northern elevation in terms of over-shadowing/loss of light and loss of outlook; this is as a result of the overall scale of the extension and the proposed proximity to the common boundary. These impacts would result in change to the relationships between the properties, but would in any event have a negative impact on 53 South Parade, but that harm is considered to be at the lower end of the scale.
- 7.20 Whilst the proposals would result in harmful impacts it is considered that these will not (in themselves) be sufficiently severe to merit a refusal of planning permission. The impacts on outlook will affect one window only, which serves a non-habitable room (the kitchen). Views from this window are already constrained by a boundary hedge and, although the proposals will have a greater impact than the hedge, it is considered that the severity of these additional impacts will not be sufficient to merit a refusal. Further, the impacts on the availability of daylight will affect two windows, which serve the bathroom and the kitchen. Given that neither window serves a 'habitable' room, and given that the kitchen area receives light from significant areas of glazing in the dwelling's western elevation (via the open-plan lounge), it is considered that the severity of these impacts will be insufficient to merit a refusal. It is also noted that within the wider locality there are examples of similar close relationships between properties (either as original or as altered/extended) and whilst each case must be considered on its own merits, this does add positive weight to the proposals.

7.21 Consequently it is considered that, on balance, the scale of the harmful impacts will not be unacceptable, and that the proposals therefore meet these requirements of Policies 2, and 3 of the SELLP. Furthermore it is Officers opinion that the impacts arising from this development would be insufficient a refusal at Appeal. Overall, therefore, it is considered that this scheme is acceptable in its own right, and when compared to the previously refused scheme has addressed a number of the issues raised at that time.

#### Flood risk

7.22 Policy 4 of the Local Plan seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. The application is accompanied by a completed 'Householder and other minor extensions in Flood Zones 2 and 3' form which indicates that: floor levels within the proposed extensions will be no lower than existing levels; the householder will sign up to flood warnings; sockets will be raised; non-return valves will be fitted to drainage; and resilient plaster or plasterboard laid horizontally will be used.

7.23 It is considered that the proposals meet the requirements of Policy 4.

### **8.0 Summary and Conclusion**

8.1 Section 38(6) of the Act requires that proposals are determined in accordance with the development plan unless materials considerations indicate otherwise. It is well-defined in case law that the development plan (in this case the South East Lincolnshire Local Plan 2011-2036) should be taken as a whole and it is for the decision-maker to weigh up the extent to which proposals are in accordance with/conflict with policies of the development plan and their objectives, along with all relevant materials considerations. The weight attributed to each of these factors within the exercise is known as the 'planning balance'.

8.2 It is considered the proposals will have no adverse impact on the character and appearance of the area (subject to a condition re. materials) and are acceptable in flood risk terms. Whilst there would remain to be some detrimental impacts upon the amenities of 53 South Parade, on balance the overall effect on neighbours' amenity is not considered to be unacceptable or severe, subject to the conditions as recommended. Overall, it is considered that the proposals have addressed some of the previous areas of concern raised by the refused scheme. Therefore, on balance, it is considered that the proposals are in accordance with the policies of the development plan when taken as a whole, and thus, should be granted permission subject to the conditions as recommended as set out in this report.

## 9.0 Recommendation

9.1 It is recommended that Committee GRANT Planning Permission, subject to the following conditions and reasons:-

1. The development hereby permitted shall be begun before the expiration of four years from the date of this permission.

**Reason:** Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in strict accordance with the application received 08-Oct-2020 and in accordance with the associated plans referenced:

- Drawing Number 02 Revision A – Proposed Plans; and
- Drawing Number 03 Revision A – Proposed Elevations.

**Reason:** To ensure the development is undertaken in accordance with the approved details, in the interest of residential amenity and to comply with Policies 2, 3, 4 and 30 of the South East Lincolnshire Local Plan 2011-2036.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) during construction of the development the proposed first-floor windows in the rear (western) elevation of the side extension hereby permitted shall be non-opening and permanently glazed in obscure glass at a minimum level of no. 3 as shown in the Pilkington five levels of obscuration privacy. Following installation, there shall be no changes to these windows, or any new windows added within the extension.

**Reason:** To prevent a loss of privacy for 53 South Parade and to protect the level of amenity which would ensure the development accords with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan 2011-2036.

4. No development above ground level shall take place until details of the materials proposed to be used in the construction of the external surfaces of the extensions hereby approved have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

**Reason:** To ensure that the extensions are in keeping with the character of the area in accordance with Policy 2 of the South East Lincolnshire Local Plan 2011-2036.