

This report contains an appendix which contains information which is exempt by virtue of paragraph 5 of schedule 12A of the Local Government Act 1972

## REPORT TO COUNCIL

**REPORT OF: Chairman, Development Control Committee**

**REPORT NO: CHSC20**

**DATE: 18 June 2009**

<b>TITLE:</b>	<b>Modification Order to planning permission S08/1318</b>	
<b>KEY DECISION OR POLICY FRAMEWORK PROPOSAL:</b>	N/A	
<b>PORTFOLIO HOLDER: NAME AND DESIGNATION:</b>	Councillor Frances Cartwright Economic Development and Planning Portfolio	
<b>CONTACT OFFICER:</b>	Mr Stuart Vickers, Development Services Manager	
<b>INITIAL IMPACT ASSESSMENT:</b>	Carried out and Referred to in paragraph (7) below:	Full impact assessment Required: NO
<b>Equality and Diversity</b>		
<b>FREEDOM OF INFORMATION ACT:</b>	This report is publicly available via the Local Democracy link on the Council's website: <a href="http://www.southkesteven.gov.uk">www.southkesteven.gov.uk</a> The report contains an appendix which is exempt by virtue of the fact that it contains information in respect of which a claim to legal professional privilege could be maintained in legal proceedings	
<b>BACKGROUND PAPERS</b>	None – exempt information	

### 1. RECOMMENDATIONS

The Development Control Committee recommends to full Council that a modification order be made in respect of planning application reference S08/1318 in the form of the draft order attached to this report at appendix 1.

### 2. PURPOSE OF THE REPORT/DECISION REQUIRED

The Development Control Committee recommends to Council the making of a modification order in respect of planning application reference S08/1318, relating to land to the rear of 43-46 St Pauls Street Stamford, division of unit 4 into two flats.

### **3. DETAILS OF REPORT (SUMMARY – USE APPENDICES FOR DETAILED INFORMATION)**

Planning permission was granted under S05/1485 for the erection of seven dwellings to the rear of 43-46 St Paul's Street Stamford..

Before work commenced another application was received (S08/1318, which is the subject of this report), to divide unit 4 into two flats.

The proposal involved a small extension to the ground floor to infill under the balcony area and the enlargement of the balcony at first floor area to extend to the total width of the new first floor flat, this being the only amenity area for the first floor flat.

The existing planning permission had approved a balcony of 2.8m in length to unit 4 and balconies to units 2 and 7. The new balcony to unit 4 under the new application would be 6m in length.

The application was approved by the case officer under delegated authority on January 16<sup>th</sup> 2009 and a statement on the case file was made that there would be “no adverse impact on the amenities of existing and proposed neighbouring residential properties”.

Upon construction of the dwellings it became apparent that the extension of the balcony by the additional 2.2m could have an adverse effect on the amenity of a neighbouring property. This is because of the proximity of the extended balcony to their garden and the topography of the site in relation to the surrounding land.

In order to rectify this situation it is proposed that a modification of the planning permission be granted to reduce the size of the balcony and its impact on the neighbouring dwelling. Discussions have been held with the developer and the adjacent owners who have stated that they would not oppose such an order being made.

The order will seek to reduce to the size of the balcony to the original dimensions approved under S05/1485 which was 2.8m in length.

### **4. OTHER OPTIONS CONSIDERED**

As other options that are considered are of a confidential nature these are included in the confidential appendix to this report.

### **5. RESOURCE IMPLICATIONS**

The planning authority is seeking to modify an approved planning permission. This involves negotiation with the developer and the adjacent property owner. The action taken may lead to a claim for loss of external floor area. There will be no cost for alteration of the works as this aspect of the construction has not yet commenced.

## **6. RISK AND MITIGATION (INCLUDING HEALTH AND SAFETY AND DATA QUALITY)**

The main risk is that the modification order is not made before the part of the works to which it relates are commenced .Should this occur then the modification order would not be applicable.

## **7. ISSUES ARISING FROM EQUALITY IMPACT ASSESSMENT**

This report has no impact in relation to the council's equality and diversity policy.

## **8. CRIME AND DISORDER IMPLICATIONS**

There are no significant crime and disorder implications to the report.

## **9. COMMENTS OF SECTION 151 OFFICER**

There may be financial implications arising from this proposed course of action as a result of the loss of external floor area of the dwelling. At this stage it is not possible to identify the sum required in respect of this. The Council has an internal insurance reserve which could be utilised in this respect.

## **10. COMMENTS OF MONITORING OFFICER**

The power to make a modification order is a decision of full Council by virtue of s.97 of the Town and Country Planning Act 1990 (the Act). The matter has been considered by the Development Control Committee which makes this recommendation to full Council. S. 98 of the Act requires confirmation of the order to be made by the Secretary of State. S. 99 of the Act permits the making of an order without Secretary of State confirmation where the parties affected have been notified of the modification and have confirmed in writing they have no objection to the order. I understand the parties involved have been notified and the appropriate confirmation is expected.

Appropriate notice in accordance with the Act of the proposed order must be given after the making of any order.

## **11. COMMENTS OF OTHER RELEVANT SERVICE MANAGER**

None

## **12. APPENDICES:**

Appendix 1: Advice to Cabinet and Development Control Committee (exempt) attached

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