DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H01-1155-18**	**Applicant:**	**Mrs Elizabeth Smith-Hughes**
Proposal:	Change of use of part of ground floor office space into a self-contained flat, and the upstairs room into a self-contained flat (retrospective)		
Location:	Office 66 Backgate Cowbit		
Terminal Date:	16th February 2019		

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

National Guidance

National Planning Policy Framework 2019

Sections 5,12 and 14 of the National Planning Policy Framework (2019)

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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a retrospective application for change of use of part of ground floor office space into a self-contained flat, and the upstairs room into a self-contained flat at Office, 66 Backgate, Cowbit. The ground floor flat proposal seeks to provide an open plan kitchen and bedroom with a storage room and bathroom. The first floor flat will contain and open plan room with a bed and kitchen, and shower room / water closet in a separate room. The initial application was for two annexes and this has since been amended to read self-contained flats.

Site Description

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design. The proposal site is in Flood Zone 2 on the Environment Agency Flood Maps and not subject to increased flood hazard or risk on the 2115 South Holland Strategic Flood Risk Mapping.

History

H01-0588-05

Two-storey and single-storey extensions to existing office and domestic store - Approved - 28 June 2005.

Consultation Responses

County Highways & SUDS Officer

No objections.

South Holland Internal Drainage Board

Request a drainage strategy condition.

Cowbit Parish Council

"The Parish Councillors have no objection to this planning application, but what Councillors do object to is they have flagrantly flouted the rules and have let the properties to tenants some 18 months ago and then once found have, have retrospectively applied for a change of use. This will not be acceptable by the Parish Council should this happen again within the village."

Planning Considerations

With regard to the Parish Council comments, the retrospective nature or otherwise of an application has no impact on the recommendation of the Local Planning Authority as either of the two scenarios is weighed against the same local and national policies.

In terms of flood risk, the site is located within Flood Zone 2 of the Environment Agency's Flood Maps. A sequential test therefore needs to be undertaken. The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. Paragraph 158 of the National Planning Policy Framework advises that: "The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower probability of flooding." For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

The site, as situated, is located within Flood Zone 2 of the Environment Agency's Flood Map for Planning. The latest Agency Flood Maps 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 Holland Strategic Flood Risk Assessment (2017) is therefore used as a basis to apply the sequential test. In this respect, the site is located within an area identified as no increased hazard or flood depth. However, it is not possible, consistent with wider sustainability objectives, for all new housing within the district to be delivered within an area of no risk and this is a less severe category. It is considered that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding. In this respect, the Authority views reasonably available sites as those that are deliverable and developable (as defined by the NPPF) for the use proposed within the area, can accommodate the general requirements of the development and are, in principle, in conformity with the objectives and advice within the National Planning Policy Framework and its associated National Planning Practice Guidance relating to sustainable development and flood risk.

If it is not possible to locate the development within an area of lower flood risk, the exceptions test should be applied. The NPPF and the PPG set out two elements to the Exceptions Test. First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

In terms of the first element, the proposal will provide wider sustainability benefits to the community that outweigh flood risk; that is, the provision of additional housing in sustainable locations within the district. In terms of the latter, the Flood Risk Assessment does not recommend increasing current finished floor levels as the site is not subject to increased hazard or risk.

The flats are not immediately visible from the highway and do not constitute a material overlooking aspect. There is ample parking available on site and the room sizes provide an acceptable level of amenity for the occupants.

No objections have been received from any neighbours and there is not considered to be any material harm to neighbouring residential amenity from overlooking or overshadowing. The design, scale and layout is considered to be appropriate for the site and does not materially impact the character of the surrounding area.

Conclusion

In light of the above considerations the proposal is considered to be in accordance with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019, as well as Sections 5, 12 and 14 of the National Planning Policy Framework, 2019.

A delegated approval is considered to be appropriate.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.