

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-0680-23 **Applicant:** Mr A Wilde
Proposal: Replace 11 windows to front & side elevations
Location: 57 - 59 Salem Street Gosberton Spalding
Terminal Date: 14th February 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
29 The Historic Environment

National Guidance

National Planning Policy Framework 2023

Sections 12 and 16 of the National Planning Policy Framework (December 2023) (NPPF)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This planning application is for the replacement of 11 windows on the front and side elevations of 57-59 Salem Street, Gosberton

The applicant seeks to replace timber windows with UPVC replacements

Site Description

57-59 Salem Street is an attractive, Georgian era house of brick construction, featuring a 4-bay

frontage and slated roof. Notable for the inclusion of a later C19th or C20th shopfront feature included in the eastern end of the frontage elevation, which has now been decoratively shuttered with timber fixed shutters. At some point in the building's history, likely prior to the use of one end as a commercial structure, it was subdivided into two properties, and then reverted to a single dwelling, and has remained in this use. The building is locally listed as a 'building of local heritage' and is also included in the Lincolnshire County Council Historic Environment Record under reference MLI97195. Additionally, the property is situated within the Gosberton Conservation Area (GCA) in a prominent location that features within views of the Grade I listed Church of St Peter & St Paul. Therefore, whilst the property is not a part of the statutory list, it must be concluded that it holds substantial value to the historic environment and is heavily influential within the historic setting and the GCA.

The immediate vicinity around the proposal site can be characterised by a mix of Late C20th residential and C19th commercial and residential development. Immediately to the south, however, is open countryside.

History

None relevant

Consultation Responses

None received.

Planning Considerations

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.

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, NPPF are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Heritage Impact

As a locally listed property in the conservation area, and the setting of a significant building on the statutory list, the proposal site can be considered to form a part of the Historic Environment and therefore should be evaluated using the relevant local and national policies.

Paragraph 205 of the NPPF (December 2023) sets out the classification of harm to significance of a designated heritage asset (in this instance the Conservation Area), confirming that harm may be measured as 'substantial harm', 'total loss' or 'less than substantial harm'.

Further, paragraph 206 of the NPPF (December 2023) confirms that any form of harm to a designated heritage asset must require clear and convincing justification.

In this instance, using the desirability to retain and reinforce local distinctiveness with reference to materials (amongst other matters) set forth under Policy 29, Section B, Subsection 4 of the South East Lincolnshire Local Plan (2019) (SELLP), we can simply conclude that a proposal to remove vernacular and traditional timber windows with modern UPVC is a form of harm to the designated asset. However, in this instance, where the designated asset is the conservation area at large, the harm can be assessed as 'less than substantial' as the proposal would not largely affect the appreciation of the wider heritage asset. However, to reaffirm, the proposal is considered to represent a form of harm.

Following on, paragraph 208 of the NPPF (December 2023) confirms that where there is a risk of 'less than substantial harm', the degree of harm should be weighted against the public benefit of the

proposal. In this instance, no public benefit is identified. The applicant seeks the replacement of domestic windows on a private home, and therefore there is no element to weigh the harm against, making the proposal to inflict less than substantial harm upon the conservation area, unacceptable in terms. Moreover, no convincing justification has been provided as to why the replacement windows could not be like for like timber instead of UPVC, and the included Heritage Impact Assessment does not deny the harmful impact of the proposal, instead referring to the impact as 'limited' or 'negligible' upon the setting of the Methodist Chapel, failing to identify the harm both upon the closer Grade I listed Church, or indeed the Conservation Area, within which the proposal is directly set.

Furthermore, as previously identified, the proposal site itself is identified as a non-designated heritage asset, and as such is subject to further policy controls. Paragraph 209 of the NPPF (December 2023) confirms that *"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."*

Working alongside the above section of the NPPF, the explanatory text of Policy 29 of the SELLP asserts that "development proposals will conserve and enhance the character and appearance of designated and non designated heritage assets". As identified above, the proposal would cause less than substantial harm to the wider conservation area. The NPPF does not allow for classification of harm to non designated heritage assets, however, unlike the impact upon the wider conservation area, when considering the harm to the building itself, the effects are concentrated upon the building itself and therefore, the harm to the building itself would be considered to be 'substantial harm' if classification of harm were possible upon non designated heritage assets. Nevertheless, the same assessment may be used to confirm the scale of the harm, as per paragraph 209 of the NPPF (December 2023) and in this instance, the scale of the harm to the non designated heritage asset is considered substantial, unacceptable and unjustified.

For the reasons listed above, the proposal is deemed to foul the requirements of paragraphs 206, 208 and 209 of the NPPF (December 2023) and Policy 29 of the SELLP (2019).

Residential Amenity

Both Policies 2 and 3 of the SELLP require that proposals are acceptable in respect of their impact upon local residential amenity.

In this instance, the proposal seeks no dimensional alterations to the host dwelling and neither does it propose the creation of any new or expanded window openings. As such, there is no material risk of overlooking or overshadowing presented by this application.

Planning Balance

As detailed above, Section 38 (5) and its subsections of the Planning and Compulsory Purchase Act 2004, as amended through the Levelling-up and Regeneration Act 2023, requires for the purposes of any area in England, that the Local Planning Authority makes decisions in accordance with the adopted Development Plan and any national development management policies, taken together, unless material considerations strongly indicate otherwise.

As outlined in the report above, the proposal site is itself a non designated heritage asset situated within the conservation area which is a designated heritage asset. Therefore, the harm upon both and their settings must be examined and ultimately justified. In this instance, the Local Planning Authority concludes that the harm upon both the designated and non-designated heritage assets would be unacceptable and remains unjustified.

Conclusion

For the reasons listed above, this application is deemed to contradict the requirements of Policy 29 of the South East Lincolnshire Local Plan (2019) and Section 16 of the National Planning Policy Framework (December 2023). Therefore, the recommendation is to refuse consent.

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.