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TOWN AND COUNTRY PLANNING ACT 1990 FULL

Reference: H08-0680-23 **Date of Decision:** 13th February 2024
Applicant: Mr A Wilde
57 Salem Street
Gosberton
Spalding
Lincolnshire
PE11 4NQ
Location: 57 - 59 Salem Street Gosberton Spalding
Description: Replace 11 windows to front & side elevations

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

- 1 Paragraph 205 of the National Planning Policy Framework (December 2023) (NPPF) 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 confirms that any form of harm to a designated heritage asset must require clear and convincing justification.

The replacement of timber windows with UPVC in a prominent location, which is readily viewable from the public realm is a direct contravention of Policy 29, Section B (Conservation Areas) of the South East Lincolnshire Local Plan (2019) (SELLP) which seeks to retain local distinctiveness with regard to traditional materials amongst other things. UPVC is not a traditional vernacular material and therefore should not be introduced into the Conservation Area via the planning process. This proposal fails to either conserve or enhance the historic environment and therefore is unacceptable in its own right on the basis of Policy 29 of the SELLP, but also, in terms of Section 16 of the NPPF may be considered to be a form of harm to the designated heritage asset.

In this instance, where the designated asset referred to in reference to the proposal is the Conservation Area at large, the harm can be assessed as 'less than substantial' as the proposal would not substantially affect the appreciation of the wider heritage asset at large. However, this still represents a form of harm.

Paragraph 208 of the NPPF confirms that where there is a risk of 'less than substantial harm', the degree of harm should be weighed 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.

- 2 The proposal site is identified as a non-designated heritage asset, and as such is subject to further policy controls. Paragraph 209 of the National Planning Policy Framework (December 2023) (NPPF) 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 South East Lincolnshire Local Plan (2019) (SELLP) asserts that "development proposals will conserve and enhance the character and appearance of designated and non designated heritage assets". The proposal would cause less than substantial harm to the wider Conservation Area. Whilst Paragraph 205 of the NPPF does not explicitly allow for formal classification of harm to non designated heritage assets, the nature of the harm upon this building would otherwise be considered to represent 'substantial harm' and the same assessment may be used to confirm the scale of the harm, as per Paragraph 209 of the NPPF. Therefore, in this instance, the scale of the harm to the non designated heritage asset is considered substantial, unacceptable and unjustified.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

The determined plans are:

Application Form
Location Plan

Ref: VS-14 - Windows Specification
Details of Windows
Section Specification
Windows Specification
Block Plan
Replacement Window Details
Planning Statement & Heritage Impact Assessment
Conservation Area Plan



Phil Norman
Head of Planning
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

<https://www.gov.uk/appeal-householder-planning-decision>

<https://www.gov.uk/appeal-planning-decision>

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning-inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice OR the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.