

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-0285-21 **Applicant:** Mr N Spiers
Proposal: Change of Use from Public House to Private Dwelling
Location: The Bulls Neck Penny Hill Holbeach
Terminal Date: 14th May 2021

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
29	The Historic Environment
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 5, 8, 12 and 14

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	1	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	1	1

CASE OFFICER ASSESSMENT

PROPOSAL

Full planning permission is sought for a change of use of The Bulls Neck Public House, including ancillary residential accommodation, to use as a single private dwelling.

SITE DESCRIPTION

The site is triangular in shape and is located at the northern end of Penny Hill Road on the junction with Washway Road. It is approximately 1.8km from the centre of Holbeach. It is occupied by a public house (currently closed), including ancillary residential accommodation and an associated car parking area at the front and side.

Residential properties are situated to the north on the opposite side of Washway Road, including Penny Hill Farmhouse, which is grade II listed. Houses are also located immediately to the south off Penny Hill Road (Holmewood) and Washway Road (Northview).

RELEVANT HISTORY

No recent history

CONSULTATION RESPONSES

Holbeach Parish Council

No response.

Cllr C N Worth

No longer viable as a public house, fully support.

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

Environmental Protection

No comments or objections.

The Rt. Hon. Sir John Hayes MP

Mr & Mrs Spiers have advised me that they were forced to close their business in 2019 due to dwindling trade and their long-term poor health. They would like to remain in the property and apply for change of use to residential. However, they are concerned that this type of proposal may not be looked upon favourably by the Council. Mr & Mrs Spiers have told me that they would keep the building in its entirety, merely changing the internal layout. They fear that if they were to sell the property it may be purchased by a developer who could completely demolish the building and redevelop the whole site.

Public

No comments received

Information from Applicant's Agent

The current owners, who had previously been publicans elsewhere, purchased the site in 2016 and completed a full refurbishment prior to reopening in April 2017. Since reopening however, the pub

has failed to attract sufficient custom and hence income to survive as a viable business. The owners have tried to attract business locally, including appearing in an article concerning the pub's future back in May 2018, but there is simply insufficient trade to support this facility.

The market town of Holbeach is just over a kilometre to the south and this contains several public houses which are perhaps better placed to attract custom. The setting of the Bull's Neck is slightly more rural, with few houses in the vicinity, it is also not visible from the nearest major roads (A17). The lack of financial viability became known not long after the pub reopened and has been an issue for the owners for several years now. The business ceased trading on the 27 February 2019 as a result of insufficient income to continue. A letter dated 19 September 2019 from accountants Bowers Fleming and Co. Ltd is included confirming the financial situation at that date. The impact of the Covid-19 pandemic has of course further impacted upon the hospitality industry all over the country.

The owner has also investigated past trading history of this site and has advised that in the last 15-20 years there have been at least 4 tenants and for around a third of this period the pub was empty. Prior to their purchase in 2016 the pub had been vacant for 2 years. This clearly demonstrates that the site is poorly located for an ongoing public house business. The recent refurbishment of the Red Lion in Holbeach will also add further competition in the area.

In addition to the foregoing the applicant has been classed as disabled since February 2020, and his wife also has a life changing illness.

PLANNING CONSIDERATIONS

The main issues in this case are:

- Whether the proposed change of use is acceptable in principle and is a sustainable form of development;
- Character/appearance and heritage;
- The likely affect upon the amenity of nearby residents;
- Highway safety;
- Other material considerations, including flood risk and drainage.

Principle/Sustainability

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Policy 32 of the South East Lincolnshire Local Plan, 2019 (SELLP) specifically relates to community facilities. It states that the redevelopment or change of use of an existing community facility will be permitted only if an assessment has been undertaken which has clearly shown that the facility is:

- a. surplus to requirements; or
- b. not economically viable; or
- c. unfit for purpose"

The above policy is consistent with advice within the National Planning Policy Framework (2019) (NPPF). Para 83 states that planning policies and decisions should enable the retention and development of accessible local services and community facilities, including public houses. Paragraph 91 sets out that planning policies and decisions should aim to achieve healthy, inclusive and safe places which promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other. Lastly, paragraph 92 states that to provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs; and ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community.

Assessing the proposal against criterion a) of Policy 32 of the SELLP, the public house is located on the former A17 (Washway Road). Whilst it was once on the major route through this part of the district it is now divorced from Holbeach due to the by-pass. Passing and local custom has significantly declined over the years. It is some 1.8 Km from the centre of Holbeach, which has several public houses/restaurants that cater for Holbeach residents. It could therefore be argued that a public house in this location is now surplus to requirements.

Concerning criterion b), the applicant's agent has indicated that the current owners, who had previously been publicans elsewhere, purchased the site in 2016 and completed a full refurbishment prior to reopening in April 2017. Since reopening, however, the pub has failed to attract sufficient custom and hence income to survive as a viable business. The owners have tried to attract business locally, including appearing in an article concerning the pub's future back in May 2018, but there is simply insufficient trade to support this facility.

The market town of Holbeach is just over a kilometre to the south and this contains several public houses which are perhaps better placed to attract custom. The setting of the Bull's Neck is slightly more rural, with few houses in the vicinity, it is also not visible from the nearest major roads (A17). The lack of financial viability became known not long after the pub reopened and has been an issue for the owners for several years now. The business ceased trading on the 27 February 2019 as a result of insufficient income to continue. The applicant's accountant has confirmed in writing that, based on the information provided in order to prepare the accounts to 31 March 2018, she can confirm that a lack of trade has generated insufficient income to cover running costs.

In respect of Policy 22 criterion c), no evidence has been submitted indicating that the building is not in good order both internally and externally.

Concluding, therefore, it has been satisfactorily demonstrated that the public house is no longer sustainable/commercially viable and that it is now surplus to requirements. The proposal therefore complies with criterion a) and b) of Policy 32 of the SELLP, which is consistent with advice within the NPPF.

In terms of housing policy, the site is outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as countryside. Policy 1 of the SELLP is therefore applicable. It states that development will be permitted in the countryside that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

In this case, the public house presently has ancillary private residential accommodation. The number of residential units upon the site would not be increased. Use of the whole building as a single private residential unit, as opposed to part presently, is considered acceptable and sustainable and not in conflict with the aims and objectives of Policy 1.

Character/Appearance and Heritage

No external alterations are proposed. The change of use would not harm the character or appearance of the building or rural locality. It would not affect the setting of Penny Hill Farmhouse opposite, which is grade II listed.

The proposal therefore satisfactorily accords with Policies 2, 3 and 29 of the SELLP in this respect.

Amenity

The proposed use would be less intensive and have less of an impact upon the occupiers of nearby residential property in terms of noise, general disturbance, lack of privacy, etc.

The proposal therefore satisfactorily accords with Policies 2 and 3 of the SELLP in this respect.

Highway Safety

Ample off-street parking and turning facilities are available. Moreover, the proposal would generate less traffic to and from the site. LCC Highways have been consulted and consider that the proposed change of use would not be expected to have an unacceptable impact upon highway safety.

The proposal therefore satisfactorily accords with Policies 2, 3 and 36 of the SELLP in terms of highway safety and parking requirements.

Other Material Considerations

Flood Risk - The application is for a change of use. Paragraph 164 of the National Planning Policy

Framework, 2019 indicates that such applications should not be subject to the sequential or exception tests, but should still meet the requirements of for a site-specific flood risk assessment.

In this case, the site is located within Flood Zone 3 of the Environment Agency's Flood Maps and the proposal is classed as "more vulnerable". However, the proposal involves the re-use of an existing building, plus the South Holland Strategic Flood Risk Assessment (2017) indicates that the site is within an area identified as "low hazard". The submitted Flood Risk Assessment recommends that all bedrooms should be at first floor level and that future occupants sign up to the Environment Agency's free Floodline Warnings Direct Service.

The proposal therefore satisfactorily accords with Policy 4 of the SELLP and advice within the Framework in terms of flood risk, subject to a condition indicating that the development be carried out in accordance with the FRA.

Balance of Considerations

Policy 32 of the SELLP states that the redevelopment or change of use of an existing community facility will be permitted only if an assessment has been undertaken which has clearly shown that the facility is surplus to requirements, not economically viable, or unfit for purpose. It is consistent with advice within the National Planning Policy Framework (2019) (NPPF). In this case, the applicant has satisfactorily demonstrated that the public house is no longer sustainable/commercially viable and that it is now surplus to requirements. Moreover, the site is brownfield and is considered suitable for use as a single private dwelling taking into consideration that the public house already has ancillary residential accommodation.

No objections are raised to the proposal on character, heritage, amenity and highway safety grounds. In terms of flood risk, the site is within an area of low hazard within the South Holland Strategic Flood Risk Assessment (2017).

The proposal therefore satisfactorily accords with Policies 1, 2, 3, 4, 29, 30, 32 and 36 of the SELLP, 2019.

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.

Conclusion

The planning balance lies in favour of the proposal. It is therefore recommended that the application be approved under delegated powers.