

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H13-0971-24      **Applicant:** Mrs N Doolan  
**Proposal:** Use of annexe as hair salon  
**Location:** Annexe 90a Church Lane Moulton  
**Terminal Date:** 13th January 2025

### Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

### Representations:

|  | Object | Support | No Obj. | Comments |
|--|--------|---------|---------|----------|
|--|--------|---------|---------|----------|

### CASE OFFICER ASSESSMENT

#### Proposal

The application seeks consent for a lawful development certificate to use a detached annexe building as a hair salon.

#### Site Description

The application site comprises land at 90A Church Lane, Moulton. The site features a detached dwelling which is the host property and a detached annexe buildin.

#### Planning History

H13-0964-08: (Outline Application) Residential development - proposed detached bungalow - approved 22 October 2008

H13-0706-11: (Permission Renewal) Residential development - proposed detached bungalow (Renewal of H13-0964-08) - approved 27 October 2011

H13-0097-12: (Outline Application) Residential development - erection of 2 two bedroomed bungalows and garages - approved 19 March 2012

H13-0160-13: (Full Application) Proposed detached one-and-a-half storey dwelling and garage - approved 26 April 2013

H13-0996-13: (TPO Works) Application to remove a beech tree which is infected by the decay fungi

known as *Meripilus giganteus*. The tree is located on the western bank of Moulton River, adjacent to Moulton Park. The tree fronts on to a building plot located between 90 and 92 Church Lane, Moulton. The tree is identified as T2 of Moulton Tree Preservation Order No.9 1991 - approved 03 January 2014

H13-0852-17: (TPO Works) Works to Moulton TPO No. 9, 1991 - approved 02 October 2017

## **Consultation**

There is no statutory obligation for the Local Authority to publicise an application for a certificate of lawful development. A site notice has however been displayed next to the site for 21 days.

## **Key Planning Considerations**

### Assessment

The Town and Country Planning Act (1990) sets out that there are two main types of "development". One is operational development, such as the erection of a building, and the other is the material change of use of land.

In this case, no operational development is proposed. The application seeks to establish that the proposed use of the annexe building as a hair salon would not require a planning application as it would not result in a material change of use of the land.

The planning unit in this case is the main dwelling, the outbuilding and the associated garden space and driveway. The outbuilding is in the same occupation as the dwelling and is part of the same planning unit.

Permission H13-0160-13 has been implemented and completed. This permission did not include any conditions that restricted the use of the dwelling so as to not allow for ancillary businesses to be run from the site.

Whether planning permission is required to run a business from home is a matter of fact and degree, and largely depends on the intended business operations. For example, various factors are relevant such as how intensely the site might be used, if any particularly noisy activities are associated, if there is sufficient parking within the site and the level of disturbance that might arise.

It is established planning law that a material change of use will only have occurred if there has been a change in the definable character of the use of the site. Assessments need to be made on a case-by-case basis and the change needs to be one of substance.

According to the application form, the applicant intends to use the annexe building as a hair salon. Only the applicant would be employed and there would be no other employees. The proposed hours of use would be 9am to 5pm, 4 days per week (on Monday, Thursday, Friday and Saturday). Customers would be managed through an appointment system. Although the hours do not equate to full time hours, the operating hours are not insignificant and there is the potential for multiple visits to the site per week by customers, including at the weekend.

The scale of the business does not, on its own, mean that a change of use has taken place. To make that assessment, it is necessary to consider its effect on the character of the use of the property.

The site is located within a residential area. The nearest dwellings to the site are 92 Church Lane (to the north) and 90 Church Lane (to the south). The rear elevation of the annexe building is approximately 13m from 90 Church Lane. The annexe building faces to the north, towards 90A Church Lane. The only windows on the annexe building are on the front elevation, and as such no windows face onto 90 Church Lane. This reduces the potential impact on the neighbouring dwelling.

All activities would take place within the proposed annexe building. The permitted use of the building is for ancillary accommodation for the main dwelling. For example, to provide living space for a relative. It is unclear how many customers are anticipated per week, however, as the proposed operating hours equate to up to 32 hours per week, there is the potential for a significant number of customers to visit the site. Given that the site is located on a relatively quiet residential street, the proposed use would represent a change of use of the land due to the potential number of customers

visiting the site and the inevitable increase in trips. Potential disturbance could arise from the use of hairdryers or other equipment, and from visitors arriving and leaving the site. The levels of noise are not expected to be adverse, however, there would nonetheless be an change in terms of the level of activities emanating from the site. Some customers may walk to and from the premises, but it is reasonable to assume that many will visit the site by car. There is sufficient room for parking within the site. As such, it is not considered that customers would be required to park on the street.

Based on the above factors, the proposed use of the annexe building as a salon would therefore materially change the permitted use in order to facilitate the proposed business. Full planning permission would therefore be required for the proposed change of use.

## **Conclusion**

The proposed change of use would not be ancillary and would require a full change of use application. It is therefore considered that the certificate of lawfulness should not be granted.

## **Recommendation**

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.

## **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.