

## DECISION DELEGATED TO DEVELOPMENT MANAGER

**Application No:** H14-0427-19      **Applicant:** Mrs K Taylor

**Proposal:** Convert existing salon back into residential accommodation and conversion of garage into salon and siting of temporary storage unit - approved under H14-0020-19 - Modification of Conditions 3 and 5 relating to opening hours and use

**Location:** 7 Church Walk Pinchbeck Spalding

**Terminal Date:** 28th July 2019

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

|    |                          |
|----|--------------------------|
| 01 | Spatial Strategy         |
| 02 | Development Management   |
| 29 | The Historic Environment |
| 30 | Pollution                |

#### National Guidance

#### National Planning Policy Framework 2019

NPPF 2019.

### Representations:

|                | Object | Support | No Obj. | Comments |
|----------------|--------|---------|---------|----------|
| PARISH COUNCIL | 0      | 1       | 0       | 0        |
| WARD MEMBER    | 0      | 0       | 0       | 0        |
| RESIDENTS      | 3      | 1       | 0       | 0        |

### CASE OFFICER ASSESSMENT

#### Proposal

Convert existing salon back into residential accommodation and conversion of garage into salon and siting of temporary storage unit - approved under H14-0020-19 - Modification of Conditions 3

and 5 relating to opening hours and use.

H14-0020-19 was recently approved and this application was for the following development:

"Convert existing salon back into residential accommodation and conversion of garage into salon and siting of temporary storage unit."

The relevant conditions are set out here, with the reasons given for them being imposed:

Condition 3:

"The use hereby permitted shall not be open to customers except between the hours of 9am - 5pm on any day and not at all on Sundays or Bank and Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of the amenity of local residents.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019."

Condition 5:

"Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), the premises shall be used only as Hairdressing Salon and for no other purpose (including any other purpose in Class(es) A1 of the Schedule to the Town & Country Planning (Use Classes) Order 1987 (as amended), or in any Order or Statutory Instrument revoking and re-enacting that Order).

Reason: To ensure that the Local Planning Authority retains control over the future use of the premises/site in the interests of residential amenity.

This Condition is imposed in accordance with Policy 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019."

### Description

The site comprises a hairdressers/residential accommodation and garage with a large parking area.

The parking area is partially shared with the doctors surgery adjacent which has some parking rights.

The site is in a predominantly residential area.

The site is within the Pinchbeck Conservation Area.

### Policies/Constraints

South East Lincolnshire Local Plan March 2019.

### Representations

Pinchbeck Parish Council - Support

Public - Four Objections have been received from a local resident and user of the nearby nursery (partially truncated/summarised):

- I saw the planning notice for modifications to the already successful planning. I object on grounds of longer opening hours will create further parking issues to an already struggling congested area.

- I also object on grounds of increasing the services offered in the salon as this will only add further staffing and clientele which will again add to the congestion, risk the safety of children walking to nursery and noise pollution.

- We strongly object to extending opening hours and functions of this salon. This is a residential area only. By increasing the functions to beauty the business is yet again being slyly extended and this WILL impact on the amount of staff working from a garage sized salon. Will increase volume of

traffic, noise and clientelle. All this with no toilet facilities.

- If the business wishes to extend opening hours and its functions it needs to consider moving to a commercial environment. We don't want to be disturbed on a Sat morning from 8am or until 6pm and certainly not at bank hols either. Our wellbeing will be affected by this change.

- I strongly object. I have previously ran a beauty salon myself before. Beauty therapy requires a well ventilated space, strict adherence to the health and safety at work act and a duty of care to protect against cross contamination and infection control. I object to modifications to the business use on the basis that there is not adequate space and hand-washing facilities and there is NO toilet facilities available on site to the premises, except those in the domestic premises which business clients should not be using. This would breach health and safety.

I trust the new salon door and internal space will be accessible? The additional use will effect the amount of traffic in an already congested residential environment.

- I also object to a modification in working hours. This is NOT conducive to a residential area. And we'll impact on our wellbeing.

Two letters of support have been received, one submitted on-line and one handed in by the applicant;

- Support

I have been a client at this hairdressers for over 50 years and for a number of those years I have been going at 8.30 each Saturday morning so I cannot understand why you are trying to put working time restrictions on someone who is hard working and providing a service to the local community, as well as a home for her family. All the time I have used this salon there have been no restrictions which has always worked well for everyone so why try to change things now. I am sure I am not alone when I say I would find it very inconvenient if I was not able to still keep going early each week as it fits my lifestyle and I have been doing it for so long.

- letter handed in by applicant expressing view that in visiting the salon the person has not caused noise or disturbance when leaving the site.

### Material Planning Considerations

The main issue in this case is:

- The likely impact upon the amenity of nearby residents;

The site is located within the settlement boundary for Pinchbeck where development is allowed subject to compliance with Policy.

The proposed development does not introduce a 'new' use but rather it alters the arrangements on site to allow full residential use of the house with the business use moved into the garage.

### Amenity

The application site is within a built up predominantly residential area, and is on a narrow street with a physical barrier to through traffic meaning car movements are particularly likely to be noticeable to nearby residents and the comings and goings of customers to the business will be likely to be harmful if not controlled.

The conditions imposed upon the previously approved application, H14-0020-19, included two conditions (3 & 5) which control and restrict the hours of opening to those considered appropriate for a residential area, and to restrict the use to A1 which covers hairdressers businesses.

In light of the objections from neighbours and the fact that the conditions were felt to be necessary so recently the use of the business unfettered by a control on hours would be unacceptable. Therefore there is a need to have some form of control on business hours.

The applicant has submitted a letter in support of the application setting out personal and family reasons for needing the flexibility in operation of the business.

The applicant recently attended a meeting at SHDC Offices with their Agent and met with the Case Officer and the Development Manager.

The requirements of the business and the need for flexibility was set out by the applicant.

Officers expressed the need to protect residential amenity.

It was agreed that:

(a) Condition 3 - Officers were content to accept the following opening times as not being unacceptably harmful, and as meeting the needs of the business (Condition 5):

08:00am - 20.00 pm Monday to Friday

08:00am - 16:00pm Saturdays and Good Friday.

No opening to the public at any other time.

(b) Condition 5 - It was further agreed that the A1 use covered the business activities as some element of beauty treatments etc within the overall use would be 'ancillary' and allowed by the A1 use. This condition does not need to be varied.

It is considered that with the amended Condition 3 there would still be an appropriate level of control of the business hours and that these hours of business use are acceptable in a residential area as they are not 'anti-social' hours and that the nature of the business itself is not harmful and the movement of customers, and their vehicles, within these hours will not cause unacceptable loss of amenity to neighbours.

### Conclusion

The proposals to amend Condition 3 is acceptable as set out above. Condition 5 does not need to be amended.

On this basis the application is recommended for APPROVAL.

### **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 refuse 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 refuse 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.