

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H16-0117-25      **Applicant:** Mr S Tamber

**Proposal:** Change of use of ground floor shop into habitable space and alterations to form 5 bedrooms and bathroom to first floor to form HMO

**Location:** 90 Acacia Avenue Spalding

**Terminal Date:** 8th April 2025

### 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                          |
| 11         | Distribution of New Housing                     |
| 17         | Providing a Mix of Housing                      |
| 28         | The Natural Environment                         |
| 33         | Delivering a More Sustainable Transport Network |
| 36         | Vehicle and Cycle Parking                       |
| APPENDIX 6 | Parking Standards                               |

#### National Guidance

##### National Planning Policy Framework December 2024

##### National Planning Policy Framework December 2023

Section 2 - Achieving sustainable development  
Section 4 - Decision-making  
Section 5 - Delivering a sufficient supply of homes  
Section 11 - Making effective use of land  
Section 12 - Achieving well-designed places  
Section 14 - Meeting the challenge of climate change, flooding and coastal change  
Section 15 - Conserving and enhancing the natural environment

#### National Guidance

### Representations:

|                                          | Object | Support | No Obj. | Comments |
|------------------------------------------|--------|---------|---------|----------|
| WARD MEMBER                              | 0      | 0       | 0       | 0        |
| PLANNING LIAISON<br>OFFICER - FLOOD RISK | 0      | 0       | 0       | 1        |

|                                       |   |   |   |   |
|---------------------------------------|---|---|---|---|
| ASSESSMENT                            |   |   |   |   |
| HIGHWAYS & SUDS SUPPORT               | 0 | 0 | 0 | 1 |
| SOUTH HOLLAND INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |
| SHDC INTERNAL                         | 0 | 0 | 1 | 0 |
| OTHER STATUTORY BODIES                | 0 | 0 | 0 | 1 |
| RESIDENTS                             | 2 | 0 | 0 | 0 |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

The proposal seeks full planning permission for the change of use of a ground floor shop into habitable space and alterations to form a five-bedroom House of Multiple Occupation (HMO).

### **Site Description**

The application site comprises land at 90 Acacia Avenue, Spalding, which features a two-storey detached dwelling with a ground floor retail unit.

The site is within a predominantly residential area and is within the settlement limits of Spalding.

The site is within Flood Zone 3, as identified within the Environment Agency's flood risk maps.

### **Relevant Planning History**

H16-0350-92: (Full Application) 1st floor extension two bed alterations to ground floor layout - approved 08 June 1992

H16-0665-92: (Discharge of Condition) Reduction in size of 1st floor windows from 1770 to 1200mm wide (in respect of Condition 2 of H16/0350/92) - approved 17 July 1992

H16-0253-24: (Full Application) Conversion of detached dwelling and former shop into pair of semi-detached dwellings including demolition of existing garage - approved 17 July 2024

### **Consultation Responses**

The responses received from consultees during the consultation period are summarised below. The responses can be viewed in their entirety on the South Holland website.

Environment Agency: On the basis that the principle of ground floor habitable accommodation is existing at this site, we do not wish to object to the proposed development; however, we would like to draw your attention to the following comments and suggested condition in relation to flood risk at this site. The proposed condition wording is "Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that

Order with or without modification), no extensions to provide additional habitable/living accommodation shall be erected".

Lincolnshire County Council - Highways and SUDS: No objections. The proposal is for the change of use of ground floor shop into habitable space and alterations to form 5 bedrooms and bathroom to first floor to form HMO. The existing accommodation has 4 bedrooms and this will increase the bedrooms to a 5 bed HMO. Cycle and bin storage is internal. There is off road parking and it is a residential area. The proposal will not have an adverse impact on the public highway.

Historic Environment Officer: The proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application.

Environmental Protection: No comments.

Cllr R A Gibson: No response received.

Cllr G P Scalese: No response received.

South Holland Internal Drainage Board: No response received.

Ecology Officer: No response received.

### Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of representation have been received. The following key matters are raised within the responses:

- Concerns over the lack of proposed parking; and
- Concerns over safety and potential noise disturbance from an increased number of occupants within the site.

## **Key Planning Considerations**

### Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, 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, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

The main issues and considerations in this case include the following:

- Principle of Development;
- Visual and Heritage Impact;
- Impact on Amenity;
- Highway Safety and Parking; and
- Flood Risk.

These matters are assessed in turn below.

### Principle of Development

Policy 1 of the Local Plan sets out the settlement hierarchy in respect of delivering sustainable

development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The most sustainable locations for development are situated within the 'Sub-Regional Centres'. The site is located within Spalding which is identified as one of the sub-regional centres and is therefore the most sustainable location for development within the district. The site is also within a relatively sustainable location as services and facilities are within walking distance and there are means of public transport near to the site.

The application form specifies that the proposal is for a small HMO (Use Class C4). A small HMO can be occupied by no more than six residents. There are permitted development rights that apply that allow dwellings to be converted into small HMOs under Schedule 2, Part 3, Class L of the Town and Country Planning (General Permitted Development) (England) Order (as amended). Furthermore, under Schedule 2, Part 3, Class MA of the Order, commercial uses such as shops can be converted into residential use subject to the prior approval process. This further supports the principle of development in this case.

As such, the proposed development accords with the requirements of Policy 1 of the Local Plan. This is however subject to the assessment against site specific criteria which are assessed in turn below.

### Visual and Heritage Impact

Paragraph 135 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping.

Policy 2 of the Local Plan outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals.

Policy 3 of the Local Plan requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

The existing single storey northern side extension is proposed to be demolished. This would reveal a door and a small window in this elevation. The windows along the side elevations of the dwelling will therefore largely remain unchanged. The windows on the first floor will also remain unchanged. Other than the demolition of the side extension, the main external change is along the ground floor frontage where it is proposed to replace the existing frontage windows with two evenly spaced and similarly sized windows. The wall will otherwise be filled in with brickwork. The application form sets out that the brickwork will match the existing brickwork and white uPVC window frames are proposed. The visual impact of the frontage changes is acceptable as the building would have a similar residential appearance to other dwellings along the street scene. It is considered appropriate to include a condition requiring the brickwork to match the existing brickwork as closely as possible.

The proposal would not cause an adverse impact to the character or appearance of the area and would therefore accord with Policies 2 and 3 of the Local Plan and Section 12 of the NPPF.

### Impact on Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policies 2 and 3 of the Local Plan set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

It is considered that there would be sufficient internal living space and external amenity space for future occupants.

No new windows are proposed other than the proposed frontage windows. The proposed frontage windows would face onto the street scene rather than any of the neighbouring properties and the introduction of the frontage windows should not result in an unacceptable degree of overlooking.

The existing side extension on the northern side of the dwelling is proposed to be demolished. This would reveal the elevation behind the extension and the elevation would feature a door and a small window which would face to the north towards 92 Acacia Avenue. The door would be connected to a lobby room and the window would be connected to a shower room. There is a boundary fence between the properties which provides a degree of screening. Furthermore, as the proposed window is connected to a shower room this would not be categorised as a habitable room. The position of this window should therefore not result in an unacceptable degree of overlooking. It is however considered to be appropriate to include a condition to ensure the shower room window is obscure glazed for privacy reasons.

It is noted that two representations have been received from neighbours setting out concerns with potential noise disturbance that could arise from the proposed change of use. As set out previously, the dwelling could be converted into a small HMO using permitted development rights. This weighs in favour of the proposal. It is however considered appropriate to include a condition clarifying that the use of the site should fall under Use Class C3 or C4 to ensure the site is only occupied as a dwelling or as a small HMO rather than a large HMO as this could have a greater impact on the amenity of neighbouring properties.

Therefore, the impact of the proposed development on the amenity of neighbouring properties and future occupants would be acceptable. As such, the proposed development accords with Policies 2 and 3 of the Local Plan and Section 12 of the NPPF.

### Highway Safety and Parking

Paragraph 116 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, following mitigation.

Policy 2 of the Local Plan sets out that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation.

Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the Local Plan, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Lincolnshire County Council's highways team have not raised any objections to the proposed development. Internal cycle storage is proposed and there is room for off-road parking at the front of the site.

It is noted that within the two public representations that have been received, concerns are raised with the lack of off-road parking. As the highways team have not raised any objections and as there is some parking within the site, it is not considered that there would be an adverse impact in terms of highway safety as a result of the proposals .

The proposed development would therefore be acceptable in terms of highway safety and would therefore accord with Policies 2, 3, 33 and 36 of the Local Plan, as well as Section 9 of the NPPF.

## Flood Risk

The site is within Flood Zone 3, as identified within the Environment Agency's flood risk maps.

Policy 4 of the Local Plan development in Flood Zones 2 and 3 can be permitted in instances where specific criteria is met. Policy 4 also sets out that "change of use of existing buildings will be supported providing they do not pose an increase in risk to people".

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Within the SFRA, areas across South Holland have been identified according to the level of hazard that is posed in terms of flood risk. Appendix C of the SFRA sets out guidance in terms of the minimum measures that are required according to what hazard category areas fall under. The site is identified within a hazard rating area of 'Danger to All'. It has therefore been necessary to consult the Environment Agency on the proposals.

As the application is for a change of use, the proposed development is not required to pass the sequential or exception tests in terms of flood risk, as set out by Paragraph 176 of the NPPF (footnote 62). However, as the site is within Flood Zone 3 and a 'Danger to All' hazard area, it is still necessary to ensure the proposal is accompanied by an appropriate level of flood risk assessment and mitigation.

The Environment Agency has recommended a condition is included if approval is granted restricting the construction of any further extensions to provide living accommodation. This is in the interests of safety to ensure bedrooms are not proposed at the ground floor level for instance in the event of a flood. With the inclusion of this condition, it is therefore considered that the proposed development accords with Policy 4 of the Local Plan and the intentions of the NPPF in terms of managing flood risk.

## **Planning Balance**

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise. The proposed development represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents. The proposed development therefore accords with the Local Plan and the NPPF. In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

## **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**

Taking the above considerations into account, the proposal is considered to be in accordance with policies 1, 2, 3, 4 and 36 (including Appendix 6) of the Local Plan, along with the identified sections contained within the NPPF. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

### **Recommendation**

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