

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0191-25 **Applicant:** Mr T Mahmood
Proposal: Replacement of Side Windows and Front Door
Location: 38 Spring Gardens Spalding Lincolnshire
Terminal Date: 26th May 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
29 The Historic Environment

National Guidance

National Planning Policy Framework December 2024

Section 12 - Achieving well-designed places
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SPALDING & DISTRICT CIVIC SOCIETY	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This application is for the replacement of the side windows and front door at 38 Spring Gardens, Spalding.

Site Description

The site is located within the Spalding Conservation Area (SCA) and within the settlement boundary of Spalding and was last in use for leisure purposes before becoming vacant.

The building is a visually distinctive structure designed in a High Victorian gothic style, constructed in red brick with vitrified brick and limestone dressings. The building has a western tower entrance bay and a gabled eastern bay dominated by two tripartite windows, with those on the ground floor having cambered shallow arched upper sections and those on the first floor having more rounded arch windows. The frontage of the building is incredibly detailed, with numerous architectural details seeking to draw the eye.

From Spring Gardens the southern elevation of the Police House can be seen clearly, along with the extensive rear wings of the Sessions House. To the east is the former Post Office depot. This large rectangular brick building covers a corner site on Spring Gardens and The Crescent (which leads to the Sheep Market to the north).

The application building was listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as amended, for its special architectural or historic interest, as a Grade II Listed Building on 2 July 2019. The Historic England listing description describes the property like so:

"Former Christian Association and Literary Institute built in 1871.

MATERIALS: rich red brick laid in English bond with dressings in red brick, vitrified brick and limestone.

PLAN: the building has a narrow frontage facing south-east onto Spring Gardens and a long rectangular plan with rear extensions added in the second half of the C20.

EXTERIOR: the former Institute is in a flamboyant Venetian Gothic style with two storeys and an irregular three-bay facade. The floors are demarcated by a mixture of stone bands, brick cogging, and rows of sunken brick panels or square panels of vitrified brick which give the impression of coffering. The building has a pitched roof across the frontage with fleur-de-lis ridge tiles and a parapet at the north-east gable. The roof running at right angles along the rear is plain, although the eaves on the side and front elevations are embellished with brick machicolations.

The first bay is in the form of a three-stage square tower with an elaborate entrance on the ground floor. The double-leaf six-panel door has chamfered edges to the panels and is positioned under a kneelered stone gable with stone coping and a fleur-de-lis finial. The gable has a carved floral design in the gable head and waterleaf enrichment along the bottom. Set within the gable is a pointed arch resting on stone columns with Corinthian capitals and annulets. The recessed tympanum of the arch contains a circular date stone with the date 1871 surrounded by foliate carving; and the bottom edge is carved in a delicate chevron. The second and third stages of the tower have a recessed central panel. The second stage is lit by a four-pane window with wooden glazing bars set under a semicircular brick arch of rubbed red brick with a pointed arch of vitrified brick above. The third stage of the tower contains a blind oculus with a double circular surround of brick headers. The second bay is lit on the ground floor by a tall window (not original) with a cambered top and gauged brick arch, under a band of vitrified brick which continues across the third bay. The first floor is lit by a semicircular arch window under a pointed arch of vitrified brick which also continues across the third bay to form the window arches. The third gabled bay has tripartite windows on both floors in a slightly different design. Both have two mullions in the shape of stone columns (like those flanking the front door) but the ground floor windows have cambered upper sections whilst those on the first floor have pointed arches. The kneelered gable head is pierced by a blind oculus. It appears to have been originally surmounted by a finial but this has been removed.

The left return (south-west elevation) is divided into five bays by brick piers. On the ground floor the window in the first bay has been bricked up and a small horizontal window inserted in the C20. The second bay was originally bricked up and the next two bays are lit by one-over-one pane horned sashes with cambered upper sections. The first floor is lit by four-light windows with semicircular upper sections, except for the third bay which is blind. Above all the windows are vitrified brick arches which continue across the elevation. The fifth bay consists of the tower which has the same treatment as on the front elevation, except the ground floor is lit by a semicircular arch window.

On the right (north-east) return the gable end forms the first two bays which are divided by brick

piers and lit by four-pane windows with semicircular overlights under gauged brick arches. The position of the internal staircase is articulated by a diagonal line of stepped brick. Following this the elevation becomes plain in detail and is faced in inferior brick probably because it would not have been visible when first built due to the close position of an adjacent building (since demolished). It is divided into three bays by brick piers and lit by a combination of sash windows with cambered upper sections and fixed light, semicircular arch windows. The rear C20 single-storey brick extensions are of standard construction and have flat roofs and are not included in the listing. INTERIOR: this retains numerous historic features including skirting boards, dado rails, picture rails, cornices and four-panel doors with chamfered edges to the panels. The small entrance lobby has a geometric tiled floor and leads into the entrance hall which provides access to the ground floor rooms and the staircase to the first floor. The closed well, quarter turn stair has a balustrade on the lower end with two balusters per tread that extend below the tread ends. The handrail twists at the end and is supported by a circular newel post with numerous annulets.

The first floor is one open space which presumably was the lecture hall. The high ceiling has a coved cornice and three intricately patterned ceiling roses where gas lights would previously have hung. The moulded window frames have recessed panels. The ground floor presumably contained the reading room, classroom and library but there are no surviving fixtures to indicate their former usage. The room in the south-east corner has been partitioned to create WCs but retains its cornice and two ceiling beams supported by pairs of shaped brackets."

History

H16-0469-18

Change of use of the existing building from use class D2 to use class C3, to include four 2-Bedroom apartments and two 1-bedroom apartments, proposed new four storey apartment building including twelve 1-Bedroom apartments, and associated external works and infrastructure. REFUSED on 20-03-19

H16-1131-21

Change of use of existing building from dance/fitness studio (class E) to 2 x 1-bed flats and 5 x 2-bed flats (class C3) including the formation of a pitched roof to existing single-storey projection. Approved on 23-05-22

H16-1132-21

Change of use of existing building from dance/fitness studio (class E) to 2 x 1-bed flats and 5 x 2-bed flats (class C3) including the formation of a pitched roof to existing single-storey projection. Approved on 23-05-22

H16-0005-24

Details of archaeological investigation, foul water disposal & external boxes for gas and electrical supplies (Conditions 3, 11 & 14 of H16-1131-21). Approved on 11-03-24

H16-0480-24

Details relating to archaeological report, arrangements for public and/or private refuse/recycling collection and boundary treatments (Conditions 5, 9 & 12 of H16-1131-21). REFUSED on 07-08-24

H16-0818-24

Details of arrangements for public and/or private refuse/recycling collection and details of boundary treatments including schedule of walling, railing & fencing levels, heights and materials (Conditions 9 & 12 of H16-1131-21). REFUSED on 21-11-24.

Consultation Responses

LCC Historic Environment Officer

No archaeological input required.

We can support this application on the basis that it will enhance the future sustainability of the building, but feel that an opinion from the Conservation Officer on the merits of the application should be obtained.

Planning Considerations

Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority to have special regard to the desirability of preserving listed buildings, their setting, or any features of special architectural or historic interest which they possess.

Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 require decision makers to have special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest which they possess as well as the desirability of preserving or enhancing the character or appearance of conservation areas. Any adverse effect on a heritage asset, even if slight or minor, would not preserve the asset or its setting.

Furthermore, the importance of considering the impact of development on the significance of designated heritage assets is expressed in the National Planning Policy Framework (2024) (NPPF). The NPPF advises that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (2024) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

As such, Para. 213 of the NPPF sets out that where proposals could lead to 'substantial harm' to a grade II listed designated heritage asset, clear and convincing justification should be necessary and that this justification should be exceptional.

Para. 214 of the NPPF then goes on to confirm that where a proposal would lead to substantial harm to a designated heritage asset, local planning authorities should refuse consent unless it can be demonstrated that the substantial harm is necessary to achieve substantial public benefits that outweigh that harm, or that all of the following apply

- "a) The nature of the heritage asset prevents all reasonable uses of the site; and*
- b) No viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and*
- c) Conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and*
- d) The harm of loss is outweighed by the benefit of bringing the site back into use."*

Finally, Policy 29 of the South East Lincolnshire Local Plan (2019) (SELLP) confirms that in order to respect South Holland's historical legacy all proposals shall conserve and enhance the character and appearance of designated heritage assets. Additionally, Section A of that policy confirms that proposals to change the use of a Listed Building or to alter or extend such a building will be granted where the Local Planning Authority is satisfied that the proposal is in the interest of the building's preservation and does not involve activities or alterations prejudicial to the special architectural or historic interest of the Listed Building or its setting.

With the above in mind, the Local Planning Authority considers the proposal to represent a form of harm. That harm is identified as 'Less than substantial harm' and is borne of the fact that the proposed windows are not of an identical nature to the existing in terms of frame style and glazing format. Nevertheless, the styles remain ornate and fitted to the vaulted openings.

As less than substantial harm is identified, clear and convincing justification is required and in this instance, in achieving the consented use, which is considered to be the optimum viable use for this currently disused site, typically opening windows allowing ventilation and not harming interior usable space is considered to be convincing, particularly as the amendment secured ensures that the

frontage elevation windows - which are by far the most significant architecturally on site.

The proposed door is also not 100% replicative of the existing door. However, the extant is heavily damaged, well beyond repair. The proposed replacement does seek to utilise similar construction, using timber and a style, which whilst slightly simpler, is generally inspired by the on site style and would not appear out of keeping or at odds with the setting.

For these reasons, it is considered that any harm in this instance is justified and therefore, consent may be granted.

Other Matters

The Local Planning Authority must consider the impact/harm the proposal has on the significance of the heritage asset as outlined above. It is not the requirement of the Local Planning Authority to assess other matters, such as residential amenity impacts or highway safety within a Listed Building Consent submission or matters that do not relate to the host listed buildings.

The assessment of these other matters and additional elements of a proposal would take place within the Full Planning Permission, should this be required.

Notwithstanding the above, legal acts independent from planning, serve to protect matters outside planning control. Any legal requirements or independent acts that governs these matters must still be followed and are not superseded by the Local Planning Authority grant of listed building consent.

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

For the reasons listed above this application is deemed to be in accordance with Policies 1, 2, 3 and 19 of the SELLP (2019) as well as Sections 12 and 16 of the NPPF (2024). The recommendation therefore is to approve.