

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0237-24 **Applicant:** AS&S Property Investments Ltd

Proposal: Replacement of degraded timber sash windows with new double glazed timber windows and replacement entrance door - Part retrospective

Location: 11 Market Place Spalding

Terminal Date: 13th May 2024

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 2023

Sections 12 and 16 of the National Planning Policy Framework (December 2023)

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This Listed Building Consent Application is for the part-retrospective replacement of timber windows and replacement entrance door on the rear extension at 11 Market Place, Spalding

Site Description

The application site comprises a substantial mid-terrace property located on Market Place in

Spalding town centre and within the Spalding conservation area. Market Place, which is largely pedestrianised, lies within the designated Primary Shopping area for Spalding and is also designated as Primary Shopping Frontage.

The building, which is located within the Spalding Conservation Area, is Grade II Listed. The listing description describes it as:

Mid C19. 4 storeys in brick with stone dressings. 3 windows, cornices on carved brackets, round-arched heads, bands at cills. 2nd floor has 2 windows with triangular and 1 with segmental pediment, segmental-headed windows with keystones. 1st floor windows similar, but with segmental pediments. Modern shop front. In similar style to No 12 (q.v.). Nos 11, 12 and 14 form a group.

The site is currently vacant but was last occupied by Calthrops Solicitors. The building is four storeys high at the front with significant two storey elements to the rear. Vehicle access is from Drapers Place to the south. It has a car park to the rear with 16 marked out parking spaces.

History

H16-1302-21

LISTED BUILDING CONSENT APPLICATION. Internal alterations and conversion from Class E to mixed use Class E/ Class C3 (12 residential units). Approved on 03-08-22

H16-1319-21

Internal alterations and conversion from Class E to mixed use Class E/ Class C3 (12 residential units). Approved on 03-08-22.

H16-0007-23

Details of construction management (Condition 4 of H16-1319-21). Approved on 15-03-23.

Consultation Responses

Spalding and District Civic Society

The Spalding and District Civic Society provided a substantial consultation response.

It can be summarised as displaying a preference that the applicant be required to repair rather than replace the existing timber windows in line with local policy and national guidance offered by Historic England.

Evaluation

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, NPPF are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Local Planning Authorities are also required to be mindful of their duty in determining matters in respect of Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990. The Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority to:

- have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses (Section 16).

The objective of preservation is to cause no harm, and is a matter of paramount concern in the planning process. Beyond this, where harm would be caused, there is a necessity to establish the extent of that harm, and consider this within the policy context.

Planning Considerations

Heritage Impact

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.

Sections 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 (December 2023) (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 (December 2023) 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".

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 that affect the setting of a Listed Building will only be supported where they preserve or better reveal the significance of the Listed Building, and that proposals that seek to alter a listed building shall be granted where the LPA is satisfied that the proposal is in the interest of the building's preservation and does not involve alterations that are prejudicial to the special architectural or historic interest of the Listed Building or its setting.

Taking the above into account, and assigning this site the appropriate assessment of significance, in this case extreme weight must be given to the preservation and conservation of the asset. In this instance, the application is only for the replacement of the windows to the rear section of the listed building, which is of clearly lesser significance to the value of the wider asset, being situated to the rear, and of a later, less attractive design to the host. The listing description makes no mention of this portion of the listed building and 11 forms a group of listings with 12 and 14 Market Place, which are all notable for their architectural familiarity, concerning the frontage sections, of which this portion of the building is not a part, or shared with either of the other properties in the listing group. As it stands, the existing windows are not original and are clearly of a non original design - this application seeks to replace these windows and door like for in a style which seeks to replicate closely the existing, with the addition of double glazing. In this instance, it is not considered that the introduction of double glazing represents a substantial alteration of the character value of this lesser portion of the listed building.

Therefore, the proposal satisfies Policy 29 of the SELLP, in addition to Section 16 of the NPPF. The impact upon the historic environment is, therefore, acceptable.

Conclusion

For these reasons, this application is deemed to be in accordance with Policies 1, 2, 3 and 29 of the SELLP (2019) as well as Sections 12 and 16 of the NPPF. Therefore, the recommendation is to refuse.

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.