

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0262-21 **Applicant:** Mr M Woodroffe
Proposal: Change of use of ground floor of public house to 3 self contained residential flats
Location: Mulberrys Bar Swan Street Spalding
Terminal Date: 7th June 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework 2019

Sections 5, 12, 14 and 16 of the National Planning Policy Framework (2019)

- 5 - Delivering a sufficient supply of homes
- 12 - Achieving well-designed places
- 14 - Meeting the challenge of climate change, flooding and coastal change
- 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SPALDING & DISTRICT CIVIC SOCIETY	0	0	0	1
WELLAND AND DEEPIINGS INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	1	0	1	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a full planning application for change of use of the ground floor of a public house to 3 self contained residential flats at Mulberrys Bar, Swan Street, Spalding. Flat 1 would contain a bedroom, shower room, and a combined eating and living area. Flat 2 would contain a bedroom, shower room, and a combined eating and living area. Flat 3 would contain a bedroom, shower room, and a combined eating and living area. The undercover seating area is to provide a bin and cycle storage area. No alterations would take place on the upper floors and no external alterations are to be made at ground floor level.

SITE DESCRIPTION

The building is in the defined settlement limits of Spalding. The surrounding area is characterised by buildings of varying uses, varying ages and varying designs. The building is not listed, not subject to an Article 4 Direction and is not in Spalding Conservation Area, although it sits just outside the boundary of the conservation area. The site is in Environment Agency Flood Zone 3, and is not subject to increased flood hazard or flood depth on the 0.1% 2115 South Holland Strategic Flood Risk Mapping.

HISTORY

None

CONSULTATION RESPONSES

LCC - County Highways & SUDS Officer

No objection.

"The application site is centrally located within the town for residents of the proposed flats to be able to access a wide range of shops, services, employment opportunities and public transport options on foot. Also, the proposal includes sheltered storage for residents' cycles that could provide transport to destinations a little further afield than comfortable walking distance. It would therefore be possible to live at the proposed flats, and go about daily life, without relying on the use of a private motor vehicle. It is considered that the absence of any car parking space within the application site, at this location, would not be expected to demonstrably result in the proposed development having an unacceptable impact upon highway safety."

"The proposed development is for a change of use of part of an existing building and therefore it is not expected that there would be any change to the existing drainage arrangements. In view of the above, Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) does not wish to object to this planning application."

Welland & Deepings Internal Drainage Board

No comment.

Sir John Hayes MP - Objection - Summation of comments

Confident that customers will return once restrictions are eased.
An entirely residential building in this location would be out of character.
Residents in this area may generate noise concerns.
Lack of parking provision.

Spalding & District Civic Society

"As the site is designated as being within the town centre, part of policy 25 is relevant which urges that changes to premises have regard to the significance of heritage assets and the special interests of the Conservation Areas and their settings."

"As the review of The Town Centres and Retail Capacity Study as required by policy 25 has not taken place, we feel that this application should be deferred until such time as that review can be undertaken."

"We also note that the application makes no mention of parking provision or how the outside space within the boundaries of the site might be used."

Eddisons - Estate Agents

"We met in late 2019 and I viewed the premises in early 2020. We spoke on 9 March 2020 and my advice was to sell the premises at a quoting price of £330,000 and to aim the marketing at investors converting the accommodation to all residential."

"The bar was not really making money at that time and our view was that the premises was unlikely to be sold as a bar with accommodation above and that you ought to consider conversion of the ground floor to more HMO's or sell on to an investor to take on the conversion."

"We then spoke again in late 2020 and my view with a lot of uncertainty over covid 19 was even further in the direction of a conversion of the premises. We spoke again a couple of weeks ago and I am still of the same view. A bar that was marginal / loss making before covid is not going to work going forward and that your best course of action was to convert the ground floor to HMO accommodation."

Managing Agent - Current HMO at Mulberrys Bar

"My Landlord, Mr Woodroffe, houses vulnerable adults in the HMO and I work with the council to help provide a valuable service. We feel there is not much help for the homeless and people in receipt of benefits and therefore we try our hardest to work with these people and give them a roof over their heads. At present, not all of the tenants at the Mulberry's are vulnerable but I would say 50/50. This is sometimes a challenge because of the mental attitudes of certain people but we try our hardest."

"I understand Mr Woodroffe would like to add to the supply of affordable housing and provide accommodation for the less fortunate. This would be a very popular location also as it is in close proximity of all facilities and public transport (train and bus station)."

Applicant's Accountant

"Over the past 3 years MW Holdings Spalding Limited made a loss of over £7,000 from running the pub. Before any restrictions were introduced due to COVID-19 Mr Woodroffe had explored the option of selling the pub due to the losses it had been making. Whilst operating at a loss the business has been unable to provide any pay increases for staff. The planned increases to minimum wage would mean that the costs of the business are only going to increase in the future, further increasing the losses."

"As the business does not have sufficient space in the premises to provide food, the pub has currently been closed for most of this financial year. By following the social distancing measures that are required, the pub will be unable to operate at full capacity for the foreseeable future. The business has struggled financially without these restrictions in place, and so a restriction on the number of customers will cause more financial difficulties."

"The company also lets out the rooms above the flat as affordable accommodation. The letting of these rooms have enabled the business to cover the current losses of the pub. By converting the pub in to the proposed flats Mr Woodroffe will be able to provide additional affordable accommodation in the town centre."

Members of the public - Objections - Summation of comments

"Once a pub is gone it's more than likely gone forever".
Offers footfall for the town centre.
The dwellings will add rubbish to the area.

PLANNING CONSIDERATIONS

Assessment against SELLP Policy 1 - Spatial Strategy

This proposal is assessed against SELLP Policy 1 titled - Spatial Strategy. The relevant section in this policy is titled Sub-Regional Centres. This section of the policy states:

"Within the settlement boundaries of Boston and Spalding (as shown on the Inset Maps) development will be permitted that supports their roles as Sub-Regional Centres."

Assessment against SELLP Policy 2 - Development Management

This proposal is assessed against SELLP Policy 2 titled - Development Management. This policy states:

"Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:

1. size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses;
2. quality of design and orientation;
3. maximising the use of sustainable materials and resources;
4. access and vehicle generation levels;
5. the capacity of existing community services and infrastructure;
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
7. sustainable drainage and flood risk;
8. impact or enhancement for areas of natural habitats and historical buildings and heritage assets;
9. impact on the potential loss of sand and gravel mineral resources."

When assessed against the above relevant criteria the following can be observed:

1. The size and scale of the building remains unaltered, save for a small storage area in the rear amenity area to facilitate cycle storage. The internal layout will facilitate 3 one bedroom flats without any exterior alterations to the main building. It is therefore considered that there will not be a material impact on the character and appearance on the surrounding area.
2. The design elements are solely internal with all original features of the building retained.
3. There are no new external materials required as part of this application.
4. No vehicular accesses or parking spaces are required. The location of the building is perfectly sited for public transport use, with a train station and bus station both within a three minute walk. The County Highways & SUDS Officer has no objections to the proposal.
5. The proposal will not impact existing community services and infrastructure.
6. There is considered to be a material reduction in noise, odour, disturbance and visual intrusion as a result of this proposal. A residential use will significantly reduce amenity impact on other residential uses in the area due to a reduction in the intensity of use of the building.
7. The site is in Environment Agency Flood Zone 3, and is not subject to increased flood hazard or flood depth on the 0.1% 2115 South Holland Strategic Flood Risk Mapping. There is not a requirement to raise internal finished floor levels to facilitate this development.

8. Whilst the building is historic, the building is not listed, not subject to an Article 4 Direction and is not in Spalding Conservation Area. All existing design features are to be retained including the stained glass windows on the frontage of the building.

The proposal accords with SELLP Policy 2.

Assessment against SELLP Policy 3 - Design of New Development

This proposal is assessed against SELLP Policy 3 titled - Design of New Development. This policy states:

All development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Development proposals will demonstrate how the following issues, where they are relevant to the proposal, will be secured:

1. creating a sense of place by complementing and enhancing designated and non designated heritage assets; historic street patterns; respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area;
2. distinguishing between private and public space;
3. the landscape character of the location;
4. accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways;
5. the provision of facilities for the storage of refuse/recycling bins, storage and/or parking of bicycles and layout of car parking;
6. the lighting of public places;
7. ensuring public spaces are accessible to all;
8. crime prevention and community safety;
9. the orientation of buildings on the site to enable the best use of decentralised and renewable low-carbon energy technologies for the lifetime of the development;
10. the appropriate treatment of facades to public places, including shop frontages to avoid visual intrusion by advertising, other signage, security shutters, meter boxes and other service and communication infrastructure;
11. residential amenity;
12. the mitigation of flood risk through flood-resistant and flood-resilient design and sustainable drainage systems (SuDS);
13. the use of locally sourced building materials, minimising the use of water and minimising land take, to protect best and most versatile soils;
14. the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity, green infrastructure, flood risk mitigation and urban cooling;
15. the appropriate use or reuse of historic buildings.

When assessed against the above relevant criteria the following can be observed:

1. A sense of place will not be impacted by this proposal as there are to be no external alterations to the design or materials of construction.
2. It is easy to distinguish between private and public space. Flat 1 will be accessed from the existing principle elevation door, with Flats 2 and 3 accessed via the gated access on the western side elevation of the building.
4. The site is perfectly located for use of public transport or pedestrian movements. The trains station and bus station are both within a three minute walk of the flats, with a wide range of goods and services available in Spalding town centre.
5. There is more than adequate space to the rear of the building for the storage of bicycles and refuse bins.
11. There is considered to be a material reduction in noise, odour, disturbance and visual intrusion as a result of this proposal. A residential use will significantly reduce amenity impact on other residential uses in the area due to a reduction in the intensity of use of the building.

12. The site is in Environment Agency Flood Zone 3, and is not subject to increased flood hazard or flood depth on the 0.1% 2115 South Holland Strategic Flood Risk Mapping. There is not a requirement to raise internal finished floor levels to facilitate this development.

15. Whilst the building is historic, the building is not listed, not subject to an Article 4 Direction and is not in Spalding Conservation Area. All existing design features are to be retained including the stained glass windows on the frontage of the building.

The proposal accords with SELLP Policy 3.

Assessment against SELLP Policy 25 - Supporting the Vitality and Viability of Boston and Spalding Town Centres

This proposal is assessed against SELLP Policy 25 titled - Supporting the Vitality and Viability of Boston and Spalding Town Centres. This policy states:

Boston and Spalding town centres will continue to be the primary destinations for retail, entertainment, markets and events while their rich environmental qualities can be promoted, enhanced and appreciated.

The Councils will promote appropriate opportunities to support and extend the offer of the town centres as destinations through the following:

1. Supporting the redevelopment of land within the town centre boundary that can provide for retail and other town centre uses in accordance with the sequential test;
2. Enhancing existing sites and ensuring changes to premises have regard to the significance of heritage assets and the special interests of the Conservation Areas and their settings;
3. Enhancing the public realm through improvements to public spaces, accessibility and signage;
4. Promoting town centre events;
5. Providing interpretation and promotional information;
6. Supporting proposals that seek to maintain the viability and attractiveness of the weekly markets;
7. Encouraging opportunities to support temporary uses in vacant premises in the primary shopping areas.

The Councils in conjunction with other partners will develop partnership working to ensure the vitality and viability of the Boston and Spalding town centres. A review of The Town Centres and Retail Capacity Study will be commenced within one year of the adoption of the Local Plan to review retail capacity, town centre boundaries, primary shopping frontages etc. This will lead to a review of the Retail section of the Plan and will advise the most appropriate actions for the partnership to take, e.g. masterplans, site specific development briefs, town centre boundary reviews etc.

When assessed against the above relevant criteria the following can be observed:

1. The proposal accords with the sequential test. The application is for residential development in the largest settlement in the district, and is not impacted by increased flood depth or surface water concerns.
2. Mulberrys Bar has not been designated as a heritage asset and is not in Spalding Conservation Area. However, the proposal seeks to retain all existing external features of the existing building.

The proposal accords with SELLP Policy 25.

Assessment against SELLP Policy 32 - Community, Health & Well-being

This proposal is assessed against SELLP Policy 32 titled - Community, Health & Well-being. This policy states:

Development shall contribute to: the creation of socially-cohesive and inclusive communities; reducing health inequalities; and improving the community's health and well-being. To this end, development will not be permitted unless it (where possible and appropriate):

1. protects and enhances existing public rights of way, and creates new links to the rights of way network; and
2. creates environments which:
 - i. discourage crime and disorder, and do not create the fear of crime;

- ii. encourage healthy eating and local food growing;
- iii. are accessible to all sections of the community;
- iv. facilitate walking, cycling and public transport use; and
- v. encourage community use.

Where a development will increase the need for community facilities (education, childcare, teenage services, emergency services, social care, health care, libraries, museums, other cultural facilities, places of worship, community halls, sports facilities, recreational open space, or other green infrastructure), it will not be permitted unless it (where necessary) supports the provision of new facilities, and/or the enhancement of existing facilities in accordance with Policy 5.

When assessed against the above relevant criteria the following can be observed:

2i. The proposal is considered to reduce crime and disorder by reducing the late night congregation by potentially intoxicated users of the public house.

2iv. Due to the central location of the site, the occupants of the flats will benefit from a range of goods and services in walking distance, cycle storage and a train station and bus station both within 3 minutes walk of the building.

The proposal accords with SELLP Policy 32.

Current use of the site

Mulberrys Bar is currently closed. To open the pub with current Coronavirus restrictions would lead to a significant loss of revenue for the applicant, due to the limited number of patrons the site can accommodate. The pub does not serve food.

Additional observations

Mulberrys Bar endured financial losses prior to the Coronavirus pandemic, and current restrictions on opening during the pandemic have added to this situation.

PLANNING BALANCE & CONCLUSION

At a time which has seen a rise in homelessness and people suffering financial hardship, the creation of additional accommodation for vulnerable people in the area in a central location will benefit the residents of South Holland, whilst reducing the impact on the character and amenity of the surrounding area. The proposal is considered to accord with Policies 1, 2, 3, 10, 11, 17, 25 and 32 of the South East Lincolnshire Local Plan, 2019, as well as Sections 5, 12, 14 and 16 of the National Planning Policy Framework, 2019.

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.

RECOMMENDATION

The application was referred to Chairman's Panel on 14 May 2021, where a delegated decision was agreed.