DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H16-0306-24** | **Applicant:** | **Mr S Genever** |
| **Proposal:** | Proposed change of use from part residential/commercial to Mortgage Brokers | | |
| **Location:** | 4 Pinchbeck Road Spalding Lincolnshire | | |
| **Terminal Date:** | 1st August 2024 | | |

**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 |
| 07 | Improving South East Lincolnshire's Employment Land Portfolio |
| 24 | The Retail Hierarchy |
| 25 | Supporting the Vitality and Viability of Boston and Spalding Town Centres |
| 28 | The Natural Environment |
| 29 | The Historic Environment |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2023**

Sections 6, 7, 12 and 16 of the National Planning Policy Framework (December 2023)

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| WARD MEMBER | 0 | 0 | 0 | 0 |

CASE OFFICER ASSESSMENT

**Proposal**

This Listed Building Consent Application is for the change of use from part residential/commercial to full use as a mortgage brokers

## Site Description

The proposal site sits within a central and prominent portion of the Spalding conservation area (SCA). The property is also grade II listed and Historic England describes the property like so:

*"C18. 2 storeys and attics, rendered and rough rendered with Welsh slate roofs. 3 gabled dormers. No 2 has rusticated quoins. 2 windows, moulded surrounds. C19 shop front with plain pilasters. 1 small window to Westlode Street elevation. No 4 has 1 segmental-headed window over modern shop front."*

The area in general is characterised mostly by C19th commercial and residential development. Most commercial buildings are currently used within a mixture of current use classes, comprising some retail, some professional services and some restaurant/takeaway.

## History

H16-0328-09

Replacement first and second floor windows and rebuilding of chimney. Approved 07-07-09.

H16-0329-09

Replacement first and second floor windows and rebuilding of chimney. Approved 07-07-09.

H16-0188-10

Details of window frames (Condition 4 of H16-0329-09). Approved 18-03-10.

H16-0010-11

Proposed signage. Approved 08-03-11.

H16-0011-11

Two new external doors and refurbish existing windows and replacement signage. Approved 08-03-11.

## Consultation Responses

No comments were received on this Listed Building Consent application. However, multiple comments were received for the accompanying Planning application (H16-0304-24). These were:

Lincolnshire County Council Lead Local Highways and Flood Authority

No objections.

South Holland District Environmental Protection Officer

No comments.

South and East Lincolnshire Councils Partnership Senior Ecologist

Proposal is exempt from BNG requirements.

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 this propsoal, 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

The key planning considerations in this instance include, but are not limited to;

- Principle of Development.
- Heritage Impact.

Principle of Development

SELLP Policy 1 sets out the overarching spatial strategy for the district. The application site is located within the Sub Regional centre of Spalding, of these areas 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*

SELLP Policy 24 sets out the retail hierarchy for the district, of sub regional centres it states:

*The town centres of Boston and Spalding (as defined by the Town Centre Boundaries) will be the locational focus for the development of town centre uses; planning permission will be granted for retail, food and drink outlets, financial and professional services, leisure and tourist-related uses (Classes A1-A5, B1, D1 and D2) and residential development. The provision of markets and other appropriate initiatives that would enhance the vitality and viability of Boston and Spalding town centres will be supported.*

Policy 25 of the SELLP sets out approaches to supporting the vitality of Boston and Spalding Town Centres, stating:

*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;*

At the time of writing of the SELLP, a retail use pertained to a use within Use Class A1. It should be noted in connection with this and all other principle points that since the publication of the SELLP, the Use Class Order has been updated such that various A1-A5 uses are now amalgamated into a single 'Commercial, Business and Service' - Class E. Within this use class, change is permitted without the need for planning approval. Regardless, the proposed use as an office of a financial services business (which would have consisted an 'A2' use) falls soundly within the NPPF's definition of 'Main Town Centre Uses established at Appendix 2.

Due to the Permitted Development Nature of the change to the ground floor area, it should be

affirmed that in this instance Consent is required because of the proposal to shift the above ground floor residential use, to be incorporated into the main commercial use of the property. Therefore, the proposal utilises a valid town centre use, and would not lead to the appreciable loss of such uses at a frontage level.

As such, it is confirmed that the principle of development in this instance is acceptable.

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".

As such, the NPPF sets out that where proposals could lead to 'less than substantial harm' to a designated heritage asset, the consideration of such an application must be weighted against the public benefit.

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 significant weight must be given to the preservation and conservation of the asset. No alterations are proposed to the listed structure and the proposal consists exclusively of the change of use of the property. Given that the property is listed, alterations, including addition of new signage etc will be subject to the separate need for Listed Building Consent for such changes where appropriate. In some instances, the particular use of a building can be considered to hold significance to the character and value of a property, however, in this instance, that would not be considered a key factor, and the property has a long history of use for similar commercial ventures.

As such, the Local Planning Authority considers the proposal to not present a risk of harm to either the listed building or the conservation area against which to balance any consideration. Therefore, the proposal complies with Policy 29 of the SELLP.

Vehicle & Cycle Parking and Highway Safety

Policy 2 of the SELLP details 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 of the SELLP 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.

The proposal represents a change of use of a town centre building. It is considered that given the location and accessibility to the town by multi transport modes as well as the network of car parks in existence that the proposal represents a suitable location. Moreover, LCC Highways have been consulted and have no objections both in terms of sustainability or highway safety.

## 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.

As above, the proposal is in effect for the change of use of the upper floors from residential to commercial. As established in line with Policies 1, 24 and 25 of the SELLP, in such a town centre location, a use as proposed is fully appropriate and as such, the principle of the development is acceptable.

In addition, due to the lack of alterations proposed to the building both internal and external, the LPA can only conclude that, in conjunction with an appropriate use, there is no harm to the historic environment identified against which to balance a recommendation

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..

## Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3, 4, 7, 24, 25, 28, 29, 36 and Appendix 6 of the SELLP, as well as Sections 6, 7, 12 and 16 of the NPPF. The recommendation, therefore is to approve.

## 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.