DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0315-24**	**Applicant:**	**Belvoir Block Management**
Proposal:	Proposed window replacement works		
Location:	Chandler'S Reach High Street Spalding		
Terminal Date:	4th June 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 2024)

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	1	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application is for the replacement of windows throughout Chandler's Reach, High Street, Spalding.

The proposal is inclusive of all windows featured on the property. It is proposed that the rearward

facing windows shall be UPVC in construction, whilst windows facing out toward the public realm shall be reinstated as timber sliding sash windows.

Site Description

Chandler's reach is an unlisted, late C20th / early C21st 3 storey block of flats, completed in a relatively unremarkable style, which does seek to replicate some C19th features. However, it is situated in a highly prominent riverside location within the Spalding Conservation Area (SCA) and within close visual proximity with a number of listed properties, most notably, the Ye Olde White Horse Public house and town bridge, both adjacent to the proposal site.

History

H16-1074-94

Demolition of remains of listed building. Approved 06-06-95

H16-1073-94

Residential development (eight 1-bed flats, two 2-bed flats, two 2-bed maisonettes and two 3-bed maisonettes). Approved 27-06-95.

H16-0684-95

Details of windows, doors and surrounds, and gutters, eaves and gables (Condition 4, 5 and 6 of H16/1073/94). Approved 20-07-95.

H16-0685-95

Details of demolition works to gable end chimney (Condition 2 of H16/1074/94). Approved 28-07-95

H16-1194-95

Details of roof for residential flats development (Condition 2 of H16/1073/94). Approved 28-12-95

Consultation Responses

Resident Comments

2 Comments were received from 1 local resident, who objected to the use of timber windows in the proposal, claiming they do not meet modern criteria for efficiency and longevity and it is therefore unreasonable for the LPA to require Timber windows even in a conservation area, especially at above ground floor levels.

Cllr Ashby - Local Ward Member

Supports the application

Lincolnshire County Council Lead Local Highways and Flood Authority

No objections

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted

Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Planning Considerations

The key considerations in this case are (but not limited to):

- Design and Heritage Impact
- Residential Amenity

Design and Heritage Impact

Section 16 of the National Planning Policy Framework (December 2023) (NPPF) concerns the conservation and enhancement of the Historic Environment. Paragraph 205 confirms that, in determining applications, LPAs should take account of:

"*c) the desirability of new development making a positive contribution to local character and distinctiveness."*

Paragraph 205 goes on to state:

"*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.*"

The following paragraph (206) then confirms that harm to any heritage asset should require clear and convincing justification.

Finally, Paragraph 208 confirms that where a development proposal would lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal.

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) (SELLP) govern (amongst other matters) quality and impact of design.

Policy 2 states that 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; (...)

8. impact or enhancement for areas of natural habitats and historical buildings and heritage assets; (...)"

Policy 3 goes on to confirm that development should create 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.

Additionally, as the site is within the SCA and in close proximity to a number of Listed Buildings, the Policy 29 of the SELLP which governs proposals relating to the Historic Environment, must be addressed.

Section A, Paragraph 3 of Policy 29 confirms that development in the setting of a listed building shall only be supported where they preserve or better reveal the significance of the Listed Building.

Section B of Policy 29, governing development in the conservation area, states that development within, or affecting views into or out of the conservation area should preserve (and enhance or reinforce as appropriate) features that contribute positively to the areas character, appearance and setting. Additionally, it requires that all such development should Retain and reinforce local

distinctiveness with reference to height, massing, scale, form, materials and plot widths of the existing built environment.

Assessing the case against the above legislative and policy background, the site is unlisted, however, it is within close proximity to a number of listed buildings and is in a prominent SCA position which influences the manner in which the wider setting is appreciated, and so preservation of the setting of this asset should be given considerable weight, as undesirable alterations to this building would contain great potential for harm to the wider historic environment.

It should be noted that the aspect of this application which proposes UPVC windows shall be considered to represent 'less than substantial harm'. The proposal does not represent total loss, or substantial harm due to the rear elevation nature of the harm which would not be readily appreciable from any public realm views within, into or out of the SCA. Such harm is justified by the applicant's assertion that the proposal would not influence the wider conservation area by means of the harmful element being completely limited to areas of the site which are shielded from public view. Even though the proposal only represents less than substantial harm, this must be weighed against the public benefit. In this instance, there is little public benefit other than in the enhancement of thermal efficiency for the property, which is in private hands and as such the benefit will primarily be private rather than public. However, such is the minimal nature of the harm upon the wider SCA setting that, when coupled with the benefit of the other aspect of the development in reinstating new timber windows on public-facing elevations, that the wider benefit of the scheme do outweigh the less than substantial harm.

However, it remains important to asses the proposal via the lens of the SELLP in addition to the NPPF. It is important to note that installation of UPVC windows in the conservation area, particularly at such a large scale would not typically be acceptable as the scheme can be considered to technically foul the requirements of Policy 29, Section B, Paragraph 4 in terms of failing to respect local distinctiveness in terms of vernacular forms of material and design when it comes to fenestration. However, in this specific situation, where the negative impact is limited exclusively to elevations which do not face the public realm, because there would not be a wider negative effect upon the wider setting and streetscene, an exception can be reasonably made. Furthermore, the proposal to replace all windows on public facing elevations with high quality sliding sash timber windows can itself be considered an enhancement over the visually degraded extant timber windows throughout. In that way, the proposal can be said actually to enhance the setting of the building and by extension the setting of the various nearby listed buildings, in a minor way via improved maintenance condition of the property. As such, the proposal can be considered to comply fully with Policy 29 of the SELLP.

By extension, as the proposal does respect the local setting and heritage assets as described above, the proposal can be considered to satisfy Policies 2 and 3 of the SELLP.

Residential 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 SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The alterations do not seek the creation of a quantity of window or door openings greater than that which was already consented, and none of the proposed alterations are above ground floor level, with no proposed alterations to the external dimensions of the building. As such, the Local Planning Authority does not consider there to be any increased material risk of either overlooking or overshadowing caused by this proposal.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the

determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Whilst the proposal to introduce UPVC windows into the conservation area at such a large scale could be argued to foul the requirement of Policy 29 for development within the SCA to respect local distinctiveness in terms of materials, this is balanced against the extremely limited impact that this element of the proposal would have upon the designated asset in question (the SCA) because of the specific proposed location of these UPVC units. Additionally, the negative aspects must be balanced against the positive aspect in replacing damaged timber windows on readily visible elevations with new, high quality timber units, meaning that publicly visible elevations would actually be enhanced. As such, the proposed development will not materially harm the character or appearance of the locality or amenity of nearby residents. It is therefore considered to be in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and that the balance is in favour of approval..

Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3 and 29 of the SELLP, in addition to Sections 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.