

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H16-0323-23	Applicant:	M J L Welding & Fabrication Ltd
Proposal:	Erection of 2 Two Bedroom Apartments		
Location:	Rear Of 14 Market Place Spalding Lincolnshire		
Terminal Date:	1st June 2023		

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
11	Distribution of New Housing
17	Providing a Mix of Housing
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Sections 12 and 16 of the National Planning Policy Framework (2021)

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
MATTHEW ADAMS - HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

RESIDENTS	1	0	0	0
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CASE OFFICER ASSESSMENT

Proposal

This Planning Application is for the erection of 2 two-bedroom apartments.

The proposed structure would take the form of 2 semi-detached units, formed of 3 storeys. The building would be oriented with primary elevation facing East, with gables facing south and north. Each unit would be of a 2-bay format with mirrored fenestration - 1 window and 1 door at ground level and 2 windows on 1st and 2nd storeys of each unit.

Neither unit would have individual private amenity space, with the only amenity space being a small courtyard immediately to the North of the proposal site which acts as an area for refuse and cycle storage.

The proposed external materials are as follows:

- Brick work: To match existing (would have to be established via condition)
- Roof: Slates to match existing (would have to be established via condition)
- Windows: White UPVC
- Doors: White UPVC

This application is proposed as a car-less development.

The applicant describes the proposal as apartments, the local planning authority accepts this description and shall determine the application accordingly. However, the case officer notes that the proposals appear to be more akin to a development of 2 semi-detached dwellings as each proposed unit is self-contained and fully independent.

Site Description

The proposal site is an area of disused 'back land' to the rear of 14 Market Place, Spalding. The site is adjacent to an already extant outbuilding to 14 Market Place, and sandwiched between the rear of Market Place properties and the Draper's Place and Gore Lane Car Parks. The site is within the curtilage of 14 Market Place which is a grade II listed building, described by Historic England like so:

"Early-mid C19. 3 storeys in painted brick with rusticated quoins. Blocking course on carved brackets and dentil cornice. 2 windows in shouldered surrounds with pediments to 1st floor and small balconies on brackets to top floor. Band between storeys. 1st floor has 2 windows with modillion pediments and shouldered surrounds. Modern shop front."

This setting is central within the Conservation Area for Spalding (SCA) and can be readily viewed from publicly accessible areas, including from residential properties along Gore Lane and on the edges of the Gore Lane Car Park. Currently, the rears and rooflines of the numerous Listed Buildings to Market Place can be readily seen from views within the Gore Lane/Drapers Place car parks.

This portion of the Conservation Area is in a relatively poor condition, with numerous historic additions which are visually harmful to the setting. The area is generally characterised by a mix of Residential and Commercial development.

The Grade II listed Nos 11 & 12 Market Place are listed for group value along with 14 Market Place and are visible within views of the site and therefore, this proposal can be considered to be a part of the setting of these additional listed buildings.

History

H16-0079-23

Details of window frames (Condition 4 of H16-0717-22). APPROVED 01-02-23

H16-1153-22

Details of construction management, private refuse/recycling and cycle storage (Conditions 3, 4 and 5 of H16-0716-22). APPROVED 09-01-23.

H16-0717-22

Creation of 3 self-contained apartments on the first and second floor. Works of repair, restoration and replacement of internal and external features and materials. APPROVED 03-11-22.

Creation of 3 self-contained apartments on the first and second floor. Works of repair, restoration and replacement of internal and external features and materials. APPROVED 03-11-22.

H16-0563-22

Internal Shop Alterations & New Front Sign. APPROVED 29-09-22.

Consultation Responses

Local Residents

One local resident issued an objection. The content of their comment can be summarised like so:

- Proposal represents an overdevelopment of the site.
- Proposal would overlook into private areas of the rears of properties along Market Place and their annexes/outbuildings.
- Design is out of keeping with the locality.

Lincolnshire County Council as Lead Local Highways and Flood Authority

The Application Site is within the centre of Spalding where a wide range of services, facilities, public transport options and employment opportunities are within convenient walking distance for it not to be necessary for residents of the proposed accommodation to have use of a motor vehicle to go about their daily lives. Also, there are public car parking areas within close proximity of the Application Site. It is not therefore considered to be necessary for dedicated car parking space to be provided for the proposed development. It is however recommended that sheltered, secure cycle parking facilities are provided within the development, so that residents may be able to undertake journeys that are beyond convenient walking distance. In view the above, it is not considered that the proposed development would have an unacceptable impact upon highway safety and the Authority does not therefore wish to object to the grant of Consent for this Application.

Lincolnshire County Council Historic Environment Officer

The proposed development is located within the centre of the historic town of Spalding in an area with a high potential for archaeological remains. The site is located in the vicinity of the projected alignment of the precinct wall of the medieval Spalding Priory, which ran behind the properties on Hall Place and Market Place from the surviving medieval turret known as the Prior's Oven. The adjacent shops would likely have developed on the site of a medieval merchant's market which took place outside the priory walls. The lost medieval Chapel of the Holy Rood is also thought to have been located close to this site, on the line of the priory wall, although its exact location remains unknown. Human remains have also been revealed on a number of occasions associated with the burial ground of Spalding Priory to the southeast of the site, in an area to the rear of No. 1-8 Market Place and around Bridge Street.

There is insufficient site-specific information is available at present with which to make a reliable observation regarding the impact of this development upon any archaeological remains. We recommend that further information is required from the applicant in the form of an archaeological

evaluation to be considered prior to determination, in accordance with the requirements of the National Planning Policy Framework paragraph 194 and Policy 29 of the South East Lincolnshire Local Plan (section C). This evaluation should provide the local planning authority with sufficient information to enable it to make a reasoned decision on this planning application. This evaluation should consist of trial trench excavation.

"Where a site on which development is proposed includes or has the potential to include heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation." - National Planning Policy Framework Section 16 paragraph 194.

Lincolnshire Police

No Objections.

South Holland District Council Environmental Protection Officer

I request a precautionary contaminated land condition be applied at this location, as follows: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works. This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Planning Considerations

Principle of Development

The proposal site sits well within the defined settlement boundary for Spalding. In addition, whilst the proposal includes no dedicated parking, this is a town centre location, within easy reach of services and public transport. The County Council highways department have been consulted and raise no concerns over a car-less development. Furthermore a flood risk assessment has been submitted alongside this application which confirms that whilst the site is within flood zone 3 (along with much of Spalding town centre), the actual risk of flooding remains 'low' and that the development passes the sequential and exception tests, therefore making it suitable, in the eyes of the assessor, for the location. For the reasons listed above, the principle of development within this part of Spalding is deemed to be acceptable, if other policies and matters are taken in to account.

Heritage Impact

The Local Planning Authority deems the proposal to have an unacceptable impact upon the Historic Environment. It is accepted that this portion of the conservation area holds potentially comparably less value than others. However, this should not stand as an excuse or justification to allow yet further inappropriate development, which would compound the the negative visual effect on the character of the area. This is protected against under Policy 29 of the South East Lincolnshire Local Plan (2019) (SELLP), when it states that:

"To respect the historical legacy, varied character and appearance of South East Lincolnshire's historic environment, development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets, such as important known archaeology or that found during development, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and

Gardens), river frontages, structures and their settings through high-quality sensitive design."

Which confirms that all development proposals should conserve and enhance the character and appearance of Heritage Assets, which would include the SCA. This design fails to conserve the remains of the visible contributing features to the Conservation Area and also fails to enhance the setting in any way.

The design proposed is in total contrast to the above requirements. It is a 3 storey structure which would tower over all neighbouring buildings, making it visually intrusive in its setting and in contrast to the built form of back land development in this and wider settings. This is exacerbated by the fact that the design is almost totally void of any sympathetic or character features appearing like an entirely modern, featureless block house with the only details afforded to somewhat feather the appearance being the fenestration which would only feature on the Eastern elevations, leaving the Western, Northern and, most obviously, Southern elevations appearing monolithic and absolutely characterless. This would be yet further aggravated by the fact that all of the proposal's fenestration would be white UPVC which, in accordance with Policy 29, Section B, Subsection 4 of the SELLP is not appropriate for use in conservation areas, in most circumstances and would appear visually intrusive and incompatible, drawing comparative attention to itself.

For the above reasons, this application should be deemed to be in direct contradiction of Policy 29 of the SELLP as per Section B, Subsections, 1, 4 and 5 of that Policy.

Moreover, with regards to known archaeology in this setting, The Lincolnshire County Council Historic Environment Record were consulted and raised concerns that the site in question bares a substantial likelihood of producing archaeological finds due to the historic town centre location and its position on the projected alignment of the historic precinct wall of the Spalding Priory. It was noted that the applicant has supplied insufficient site-specific information regarding the potential archaeological impact and as such, the proposal technically finds itself, for this additional reason, in contravention of Policy 29 of the SELLP, as well as Section 16 of the National Planning Policy Framework (2021). The Historic Environment Officer from LCC did suggest and request that this be rectified via a site-specific archaeological evaluation to be provided and re-consulted on prior to determination. However, as the Local Planning Authority intends to recommend the refusal of this application on principle, it has not been considered necessary to incur the applicant the additional cost of formulating a professionally carried-out archaeological assessment.

Furthermore, Policy 29 Section A, Subsection 3 states, regarding proposals relating to the setting of listed buildings:

"Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building."

As proposed, the design of this structure would be substantially harmful to the setting of numbers 11, 12 and 14 Market Place, the latter of which these proposed properties would actually sit upon the modern curtilage of. At present, whilst the general theme of the back land development in this setting is not to a particularly high standard, the roofscape and upper floors of all of these listed properties and more non-designated heritage assets along Market Place can be seen from views of what would be the proposal site. The excessive height of the proposal and the featureless nature of the design would greatly harm public views of these various designated and non-designated heritage assets, and therefore would, by extension, fail to either preserve or better reveal the significance of multiple listed buildings in addition to the wider character of the conservation area.

Therefore, this application can also be deemed to be in contravention of Section A of Policy 29 of the SELLP. Resultantly, it must be stated that the proposal fails to meet the requirements of Policy 29 of the SELLP and that exceptional justification has not satisfactorily been provided for this impact upon the Conservation Area, nor the Grade II listed properties in whose settings this proposal would be situated. The proposal, therefore, fails to also meet the requirements of Section 16 of the National Planning Policy Framework (2021) (NPPF).

In addition, it should be noted that failure to respect the historic environment in terms of design would also represent a contravention of Policy 2, Section 8 and Policy 3, Section 1 of the SELLP.

Design and Layout

In addition to the heritage impact considerations highlighted above, the Local Planning Authority

also considers the design and layout to be inappropriate to the setting. Whilst the site is in a tight, urban setting, almost all of the development in the immediate area has remaining portions of free curtilage. In contrast, the proposal site is on a curtilage which already contains 2 substantial structures and this development would represent the consumption of nearly the entirety of the remainder of the plot, except for the proposed refuse/cycle storage/amenity yard and an access pathway. Compared to surrounding development, this would represent a substantial overdevelopment of the site which would appear comparatively cramped within its own plot and fail to respect the general theme of density of development in this particular location.

Furthermore, as mentioned in the above 'Heritage Impact' section of this report, the proposed design of the structure is bland and featureless in nature on all elevations except for the East-facing, which utilises only exceptionally basic detailing such as fenestration and doors. As well as being unacceptable under the design requirements of Policy 29 of the SELLP, a design which is unattractive and fails to respect local design quality expectations and the general appearance of the setting, and any views thereof, by extension additionally fails to correspond with the requirements of Policies 2 and 3 of the SELLP

Therefore, this application would fail to meet the requirements of Policies 2 and 3 of the SELLP by neglecting to meet sustainable development considerations are met, specifically in relation to: size, scale, layout, density, character and appearance of the area, the relationship to existing development and land uses as well as quality of design and orientation.

Residential Amenity

It is generally accepted that urban or town centre residential development is afforded a reduced expectation of residential amenity due to the fundamentally dense nature of urban and town centre residential development. However, this application fails to respect fundamental aspects of residential amenity for adjacent residential plots. the first floor of the adjacent cottage to the rear of 12 Market Place is a residential property. The 3 storey nature of the proposed properties, which places residential areas of the proposal well above existing sight levels in the immediate setting, in addition to the orientation of the east facing windows would mean that residents of the proposed properties would have oblique but nevertheless clear views into the south facing windows of the cottage to 12 Market Place, substantially harming the privacy of the residents of that property. Moreover, the substantial height of the proposed properties which is much greater than that of neighbouring properties to the east and west would mean that there would be a substantial material risk of overshadowing to the South-facing windows to the rear cottage of 12 Market Place, but also the east facing windows of the flats at 30 Gore Lane to the West, out of which the blank western elevation of the proposed properties would appear overbearing and monolithic in scale.

Furthermore, the residential amenity of the residents of the proposed properties themselves would be drastically impeded by the positioning of the proposal, the lack of windows on any elevation other than the East and the relative lack of amenity space. The boundary wall between the plot and Number 12 Market Place would lead to reduced access to sunlight or an outlook in ground floor living spaces, and the lack of windows on other elevations serves to compound and worsen this effect. 1st floor windows would be afforded only a view directly of the Western wall of the rear of 11 Market Place. Only windows on the 2nd floor would be afforded both full access to light and an open outlook, due to their position above neighbouring development.

Whilst a lack of amenity space can be expected in urban settings with above-ground-floor residential units or apartments, the proposed units are self-contained independent dwelling houses and the extremely small amount of shared amenity space which would be overshadowed and overlooked is inappropriate for this type of development.

For all of the above reasons, this application fails to comply with Policy 3 of the SELLP, which states the following:

"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: (...)

11. residential amenity; (...)"

Flood Risk

The proposal site is situated within flood risk zone 3, which is the highest possible category. A Flood Risk Assessment has been submitted alongside this application and has found that whilst the proposal site is in Flood Zone 3, it is not on a flood plain and that the actual risk of flooding from any Environment Agency waterway or any other source is 'low'. The flood risk assessment recommends that FFLs should be 0.3m above surrounding ground levels and there is 0.3m of flood resilient construction above the FFL. The assessment report finally concludes that the location is appropriate for such a development.

Parking Provision

The Lincolnshire County Council Highways Authority have been consulted and confirmed that have no objection to the principle of such a car-less development in an urban setting. It is correct that the site has ease of access to employment opportunities, entertainment, leisure, shopping facilities and transport services within reasonable walking and/or cycling distance and as such, the need for motor vehicle parking can be waived as per Policy 36 and Appendix 6 of the SELLP. The applicant proposes the positioning of 2 bicycle storage units within the site's shared amenity space, which would be sufficient to meet the cycle storage requirements as set forth under Appendix 6 of the SELLP.

Conclusion

For the reasons set out above, this application is deemed to be in contravention of Policies 2, 3 and 29 of the SELLP as well as Section 16 of the NPPF. Therefore, this application is recommended for refusal.

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.