

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 22 July 2020

(Author: David Grant - Planning Officer)

Purpose: To consider Planning Application H16-0349-20

Application Number: H16-0349-20

Date Received: 30 April 2020

Application Type: Prior Approval App

Description: Conversion of 2 storey B1 use building into 2 one bed flats

Location: 35B SPRING GARDENS SPALDING

Applicant: Mr M Clark

Agent: Mr H Drury

Ward: Spalding St Johns

Ward Councillors: Cllr M Hasan
Cllr J D McLean

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0349-20>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The agent for the application is a District Councillor.

2.0 PROPOSAL

2.1 Prior approval is being sought under Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) for the conversion of a 2 storey B1(a) use (offices) building into 2 one bed flats at 35b Spring Gardens, Spalding.

2.2 The proposal seeks to provide a lounge / diner, bedroom, kitchen and shower room at ground floor level, with a lounge, bedroom kitchen and shower room at first floor level. No new windows are to be provided. However, one ground floor, side elevation window will be removed to be provide a door, beyond which an existing staircase will lead to the first floor flat. Vehicular parking will be provided to the rear of the dwelling. No other external alterations are to be made.

3.0 SITE DESCRIPTION

3.1 35 Spring Gardens is sited to the rear of the red line site boundary with 35c behind a fence to the eastern side boundary and 33 Spring Gardens beyond a farmacked area to the west to the front of 34 Spring Gardens.

3.2 The building is within the defined settlement limits of Spalding and sited in Flood Zone 3 on the Environment Agency Flood Risk Maps. It is not subject to increased hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

None as this is an application for prior approval.

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 4 - Decision-making

Section 5 - Delivering a sufficient supply of homes

Section 8 - Promoting healthy and safe communities

Section 9 - Promoting sustainable transport

Section 12 - Achieving well-designed places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

Planning Practice Guidance (PPG)

5.0 **RELEVANT PLANNING HISTORY**

5.1 H16-1280-90

Full - Change of use to residential - Approved - 08 February 1991.

H16-0078-94

Full - Change of use to residential - Approved - 31 March 1994.

H16-0113-96

Full - Change of use to office with ancillary storage and use as meeting place - Approved - 25 March 1996.

6.0 **REPRESENTATIONS**

6.1 SHDC - Environmental Protection

No objections.

6.2 LCC - County Highways & SUDS Officer

No objections.

6.3 Environment Agency

No objections.

6.4 Public

Representations have been received from 2 local residents raising the following issues:

-Parking provision

-The work is retrospective - Does not carry material weight and no evidence has been provided.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

- 7.2 Class O of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) permits the change of use of a building and any land within its curtilage to a use falling within Class C3 (dwelling houses) of the Schedule to the Use Classes Order from a use falling within Class B1(a) (offices) of that Schedule. As set out in paragraph O.2 of Class O, development is permitted subject to the condition that before beginning the development, the developer shall apply to the local planning authority for a determination as to whether the prior approval of the local planning authority will be required as to:
- (a) Transport and highway implications of the development;
 - (b) Contamination risks on the site;
 - (c) Flooding risks on the site; and
 - (d) Impacts of noise from commercial premises on the intended occupiers of the development.

7.3 Permitted Development

- 7.4 This application is assessed against Part 3, Class O of the General Permitted Development Order (2015) as amended, which reads as follows:

"Development is not permitted by Class O if:

- (b) the building was not used for a use falling within Class B1(a) (offices) of the Schedule to the Use Classes Order
 - (i) on 29th May 2013, or
 - (ii) in the case of a building which was in use before that date but was not in use on that date, when it was last in use;
- (c) the use of the building falling within Class C3 (dwellinghouses) of that Schedule was begun after 30th May 2016;
- (d) the site is, or forms part of, a safety hazard area;
- (e) the site is, or forms part of, a military explosives storage area;
- (f) the building is a listed building or is within the curtilage of a listed building; or
- (g) the site is, or contains, a scheduled monument.

Conditions

Development under Class O is permitted subject to the condition that before beginning the development, the developer must apply to the local planning authority for a determination as to whether the prior approval of the authority will be required as to:

- (a) transport and highways impacts of the development;
- (b) contamination risks on the site;
- (c) flooding risks on the site; and
- (d) impacts of noise from commercial premises on the intended occupiers of the development, and the provisions of paragraph W (prior approval) apply in relation to that application."

- 7.5 With regard to the above criteria, the building was in a B1 (a) (offices) use class on 29 May 2013. The use of the building was begun before 30 May 2016. The site is not a scheduled monument, and is not located in a safety hazard area, military explosives storage area, nor is it a listed building or located within the curtilage of a listed building.

7.6 Transport and highways impacts of the development

- 7.7 There is considered to be a positive transport and highway impact as a result of the development. As the commercial use has ceased it is anticipated that vehicular movements will reduce. Each one bedroom flat will have a parking space to the rear of the building which is considered adequate for this location, close to the town centre. The County Highways & SUDS Officer has raised no concerns.

- 7.8 Contamination risks on the site
- 7.9 There is not considered to be any contamination risks on site. No concerns have been raised by Environmental Protection.
- 7.10 Flooding risks
- 7.11 The building is within the defined settlement limits of Spalding and sited in Flood Zone 3 on the Environment Agency Flood Risk Maps. It is not subject to increased hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping. Therefore, there is no need to raise floor levels, the proposed flats would be at low risk from flooding nor would it result in any increase in flood risk to the surrounding area.
- 7.12 Impacts of noise from commercial premises on the intended occupiers of the development
- 7.13 The site is within an established residential area, thus there are no perceived impacts of noise from commercial premises on future occupiers of the flats.
- 7.14 Other Matters
- 7.15 Storage of refuse and recycling cannot be considered under Class O of the GDPO.
- 7.16 Conclusion
- 7.17 In light of the considerations above, the proposed development would comply with the provisions of Class O, Part 3, Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) and therefore constitutes permitted development. In accordance with Section O.2 of the above Order the proposed change of use has been considered in relation to transport and highways impacts of the development; contamination risks, flooding risks on the site and impacts of noise from commercial premises on the intended occupiers of the development and in relation to the provisions of the National Planning Policy Framework 2019 as required by paragraph W(10) of the said Order. It is determined that prior approval is not required.
- 7.18 **Additional Considerations**
- 7.19 Public Sector Equality Duty
- 7.20 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:
- 7.21 A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
- 7.22 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 under represented) of people with a protected characteristic(s).
- 7.23 C. Foster good relations between people who share a protected characteristic and those who do not, including tackling prejudice and promoting understanding.
- 7.24 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

- 7.25 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.
- 7.26 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.27 Human Rights
- 7.28 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).
- 7.29 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.

8.0 RECOMMENDATIONS

- 8.1 **Prior approval is not required subject to the conditions listed in Section 9.0 of this report.**

9.0 CONDITIONS

1. The development shall be completed within a period of three years from the date of this decision.

Reason: As required by the Town and Country Planning (General Permitted Development) Order 2015 (or any Order or Statutory Instrument revoking and re-enacting that Order).
2. The determined plans are:
Flood Risk Assessment (Prepared by S M Hemmings - 27 April 2020)
Proposed Floor Plans
Existing Floor Plans
Site Location Plan
Application Form

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

