DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0373-26**	**Applicant:**	**Karavan Holdings Ltd.**
Proposal:	Change of use of the first floor and part of the ground floor from commercial, business & service use (Use Class E) to one dwelling house (Use Class C3)		
Location:	3 Holbeach Road Spalding		
Terminal Date:	12th June 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Class MA of the General Permitted Development Order, 2015, for a determination as to whether the prior approval of the authority will be required for the change of use of 3 Holbeach Road from a Class E use to a residential C3 use.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. It is located to the west of the junction of Holbeach Road and Roman Bank, along the river front. The building has a clear commercial character, and as a result is somewhat anomalous within this primarily residential area. 3 Holbeach Road is a large commercial building, rendered white, with associated offices located to the south, and a large forecourt is present to the east. The application relates to the office building, which is a red brick, two storey building.

Relevant History

H16-1059-00 - Full. Proposed store extension. Approved 04/10/00.

H16-0604-24 - Full. Roof Alterations - Approved 04/10/24.

H16-0891-24 - S192. Proposed change of use from retail (Class E) gardening tools and plant shop to Class E (a) retail use other than for the sale of hot food, principally for visiting members of the public - Approved 11/12/24.

H16-1276-25 - Full. Proposed external alterations - Approved 24/02/26

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

SELCP Ecologist

No comments regarding ecology

Highway and Lead Local Flood Authority

As Highways and Lead Local Flood Authority we assess all Prior Approval applications as to whether or not Prior Approval is required for Transport/Highways impacts and flooding risks on the site. This proposal is for a change of use of the first floor and part of the ground floor from commercial, business & service use to one dwelling house, the access meets the guidelines set out in Manual for Streets, adequate parking provision is proposed within the limits of the site and the proposal will not impact flood risk. Therefore, it is considered that the proposals would not result in an unacceptable impact of highway safety and flood risk.

Environment Agency

The site is in Flood Zone 3, defined as having a high probability of flooding. The Environment Agency hazard maps show that the site has a hazard classification of 'Danger to All' and could experience flood depths of 1-2m arising from a breach in the defences during a flood that has a 0.1% chance of occurring in any one year up to 2115.
Policy 4 of the South East Lincolnshire Local Plan does not support ground floor residential accommodation in changes of use developments with a 'Danger to All' hazard rating. Such developments require 'unrestricted access to a habitable room above the flood level and an emergency evacuation plan will be required'.
As described in the 'Proposed Ground Floor Plan', the change of use on the ground floor is limited to the lobby. The other areas will remain 'Retail Class E' and will not be used as ground floor residential accommodation.
The proposed dwelling is located on the first floor, above the predicted flood depths. Considering this, we have no objections to the application."

Environmental Protection - Noise

The Nova acoustics residential noise assessment plan NP-012186 has been considered. this advises that the night time noise levels are exceeded at this location and that non opening windows are advised. as this would risk overheating they advise MVHR system be installed to reduce this. the findings of this report should be considered for this development

Environmental Protection - Pollution

No comments regarding land contamination.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Part 3, Class MA of Schedule 2 of the General Permitted Development Order, 2015

Class MA of Part 3 of Schedule 2 of the General Permitted Development Order, 2015 (Class MA) enables *"development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order"* subject to conforming to the relevant conditions.

The lawful use of the site is Class E. This was confirmed under lawful development certificate H16-0891-24. The principal building is occupied by a small supermarket, with the offices concerned here being within the same planning unit.

The change of use would result in the first floor of these offices being converted to a single, two-bedroom dwelling. The remainder of the site would remain as Class E.

Section 2 of the General Permitted Development Order, 2015 (the Order) defines building as:

"building"
(a)includes any structure or erection and, except in Class F of Part 2, Classes P and PA of Part 3, Class B of Part 11, Classes A to I of Part 14, Classes A, B and C of Part 16 , Class T of Part 19 and Class ZA of Part 20, of Schedule 2, includes any part of a building; and
(b)does not include plant or machinery and, in Schedule 2, except in Class F of Part 2 and Class C of Part 11, does not include any gate, fence, wall or other means of enclosure"

For the purposes of Class MA, a building can therefore include a part of a structure. Therefore, the partial change of use of a site may still be permissible under Class MA.

On this basis, the proposal would conform to the overarching requirements of Class MA, subject to assessment against the relevant conditions and requirements.

Development Permitted by Class MA

MA.1 outlines that when development would not be permitted by Class MA, stating the following:

"(1) Development is not permitted by Class MA
(b)unless the use of the building fell within one or more of the classes specified in sub-paragraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval;
(d)if land covered by, or within the curtilage of, the building
(i)is or forms part of a site of special scientific interest;
(ii)is or forms part of a listed building or land within its curtilage;
(iii)is or forms part of a scheduled monument or land within its curtilage;
(iv)is or forms part of a safety hazard area; or
(v)is or forms part of a military explosives storage area;
(e)if the building is within
(i)an area of outstanding natural beauty;
(ii)an area specified by the Secretary of State for the purposes of section 41(3) of the Wildlife and

Countryside Act 1981;
(iii)the Broads;
(iv)a National Park; or
(v)a World Heritage Site;
(f)if the site is occupied under an agricultural tenancy, unless the express consent of both the landlord and the tenant has been obtained; or
(g)before 1 August 2022, if
(i)the proposed development is of a description falling within Class O of this Part as that Class had effect immediately before 1st August 2021; and
(ii)the development would not have been permitted under Class O immediately before 1st August 2021 by virtue of the operation of a direction under article 4(1) of this Order which has not since been cancelled in accordance with the provisions of Schedule 3."

The proposal would conform to the criteria above. The building does not fall within any of the designations listed above. It is not listed or a scheduled monument. No agricultural tenancies are present on the site.

The application was submitted after 1st August 2022, and therefore part (g) is irrelevant.

Paragraph (2) of Class MA.1 clarifies the classes mentioned in sub-paragraph (1)(b), stating:
"2) The classes mentioned in sub-paragraph (1)(b) are the following classes of the Use Classes Order
on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2."

As previously established, the existing use of the site is Class E. There is nothing before the Council to cast doubt that the building fell into this Use Class for less than 2 years. The requirements of (1)(b) have been met in this regard.

Conditions

Class MA.2 outlines that granting of prior approval would be subject to conformity with the listed conditions. MA.2 (2) states:

"Before beginning development under Class MA, 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 impacts of the development, particularly to ensure safe site access;
(b)contamination risks in relation to the building;
(c)flooding risks in relation to the building;
(d)impacts of noise from commercial premises on the intended occupiers of the development;
(e)where
(i)the building is located in a conservation area, and
(ii)the development involves a change of use of the whole or part of the ground floor,
the impact of that change of use on the character or sustainability of the conservation area;
(f)the provision of adequate natural light in all habitable rooms of the dwellinghouses;
(g)the impact on intended occupiers of the development of the introduction of residential use in an area the authority considers to be important for general or heavy industry, waste management, storage and distribution, or a mix of such uses;
(h)where the development involves the loss of services provided by
(i)a registered nursery, or
(ii)a health centre maintained under section 2 or 3 of the National Health Service Act 2006,
the impact on the local provision of the type of services lost ; and
(i)where the development meets the fire risk condition, the fire safety impacts on the intended occupants of the building"

The site is not within the Conservation Area, is not within an area important to industry, is not a registered nursery or health care provider, and do not meet the relevant fire risk conditions. Therefore, criteria e, g, h, and i can be discounted.

Assessing the proposal against the relevant conditions, the following is considered:

(a)The proposal is not considered to give rise to an unacceptable transport impact. The site is within a well connected location, meaning that the vast majority of facilities needed for daily life could be accessed via sustainable modes of transports. A bus stop is located a short walk from the site. The proposal would utilise an existing access, which offers suitable visibility. Adequate parking

provisions have been provided. Criteria (a) has been met

(b)There are no known contamination risks on the site. The proposal is considered acceptable in this regard.

(c)The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. Within the South East Lincolnshire Strategic Flood Risk Assessment (SFRA) the site is classed as danger for all, with a hazard depth of up to two metres. Despite this significant on site flood risk, all habitable would be located entirely on the first floor. Therefore, in a flood event, residents would have a suitable safe haven, ensuring that there would not be excessive risk of harm to persons or property. A suitable evacuation plan has been provided. On this basis, it is considered that the on site flood risk can be suitably managed.

(d)A noise impact assessment has been provided. This recommends a series of alterations to the building in order to meet the identified standards. Said works were previously approved under H16-1276-25.

Paragraph W(13) of Part 3 of Schedule 2 to the Order states "The local planning authority may grant prior approval unconditionally or subject to conditions reasonably related to the subject matter of the prior approval."

It is an established principle that pre-occupation conditions requiring the completion of works otherwise approved can be placed upon a decision notice. This approach would be consistent with the High Court Judgement in LW Zenith Ltd, R. v Secretary of State for Levelling Up, Housing And Communities (2022). It is therefore recommended that a condition be imposed requiring the works approved under H16-1276-25 to be completed in full prior to the first occupation of the building.

(f) The submitted plans indicate that, subject to the implementation of works approved under H16-1276-25 be completed prior to first occupation, adequate light can be provided for each habitable room.

Subject to the implementation of appropriate conditions, the proposal is considered to meet the conditions of MA.2 of Class MA.

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.

Conclusion

The proposal is considered to represent permitted development under Class MA of Part 3 of Schedule 2 of the General Permitted Development Order, 2015. Subject to the imposition of the appropriate conditions, the proposal would meet all relevant conditions.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.