DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0385-26**	**Applicant:**	**Mr Bond**
Proposal:	Proposed change of use of the first and second storey above a commercial/mixed use premises to form a one bedroom flat		
Location:	35 New Road Spalding		
Terminal Date:	22nd 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
SPALDING & DISTRICT CIVIC SOCIETY	1	0	0	0
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Class G 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 35 New Road, Spalding from a Class E use to a mixed use, including a first and second floor C3 use.

Site Description

The site is within the defined town centre of Spalding, as outlined in the South-East Lincolnshire Local Plan, 2019. The property is a three-storey, end-terraced building. Black, timber-framed windows are present. A cafe/ takeaway is located on the ground floor, with a hair salon above.

The site is within the Spalding Conservation Area and in close proximity to two Grade II listed buildings. These properties are "The Punch Bowl", located two properties to the west, and the "Broad Street Methodist Church", located to the south-west.

Relevant History

H16-0114-23 - Full. Change of use of part of ground floor reception and first beauty salon area to cafe/takeaway serving hot and cold food. Approved 28/03/23

H16-0647-07 - Full. Installation of replacement uPVC windows (retrospective). Refused 09/07/07. Decision appealed. Appeal dismissed 17/06/08.

H16-0466-90 - Full. Alterations to shop frontage. Approved 08/01/91.

H16-0465-90 - Full. Alterations to shop frontage. Approved 20/12/90

H16-0995-89 - Full. Demolition of existing outbuildings. Approved 13/09/89

H16-0994-89 - Full. Rear extension. Approved 05/09/89.

H16-0287-76. Alterations to shop frontage. Approved 19/03/76.

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:

Spalding and District Civic Society

Objections - Whilst we appreciate that this is only a change of use application at this stage we recommend that the layout be refused because of safety reasons. The means of escape from the second floor bedroom passing through the kitchen area to either the entrance staircase or the main fire escape staircase is not acceptable because the kitchen area is a potential source of fire and the escape route is not protected through to the open air. An acceptable first floor layout would be to have the living room at the front and the kitchen behind segregated off by a wall so that escape can be via the living room. We doubt if this arrangement will pass Building Regulations without considerable mitigation

SELCP Ecologist

"Having reviewed this application, we have no comments regarding ecology."

Comment received twice

Environment Agency

"We have no comments to make in respect of planning application H16-0385-26 as the site is located in Flood Zone 3a but outside of the breach hazard extents."

Comment received twice

Environmental Protection - Noise

the current ground floor useage is unlikely to give rise to annoyance to residents of a flat above but any future use may if not suitably protected. the standard of glazing to the bedroom window may need to be upgraded to reflect this

Highway and Lead Local Flood Authority

No objections - 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 proposed change of use of the first and second storey above a commercial/mixed use premises to form a one bedroom flat. The site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport. Future residents of the development will not be reliant on the private car and therefore parking is not essential for this proposal. 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.

Conservation Officer

No objections. Building is an attractive contribution to the Spalding Conservation Area. It is however, unlisted. The application seeks no alterations to the external aspects of the property, and the conversion of the above-shop space would not introduce PD rights to the property, meaning the risk to the external appearance of the property is materially very low.

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 G, of Schedule 2 of the General Permitted Development Order, 2015

Part 3, Class G, of Schedule 2 of the General Permitted Development Order, 2015 (Class G) enables:

"Development consisting of a change of use of a building
(a)from a use within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order, to a mixed use for any purpose within that Class and as up to 2 flats;
(c)from a use within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order, to a mixed use for any purpose within Class E (commercial, business and service) of Schedule 2 to that Order and as up to 2 flats;
(e)from a use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order to a mixed use falling within article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of the Use Classes Order and as up to 2 flats."

The existing use of the property is a hair salon on the first and second floor, and a cafe/ takeaway on the ground floor. Class G would only permit the change of use of a Class E unit or a betting office or pay day loan shop to a Class E use with 2 flats above.

The information provided shows that the existing hair salon use would most accurately align with a Class E use. The procedures available are typical of a hair salon, and would not extend to a typical "Sui Generis" beauty salon use.

The ground floor is occupied by a business selling hot and cold food, primarily eaten offsite although indoor seating is present. The hot food options are limited to jacket potatoes, warmed sausage rolls, and ciabattas. Within the submitted supporting statement, it is estimated that these make up around 15-20% of purchases. These foods are prepared using a small oven, a toastie maker and a microwave. The remainder of the menu (which represents the majority of sales) is cold food options (salad bowls, wraps, poke bowls etc).

The majority of products sold are cold food options. The preparation related to the hot food options appear to more closely align with heating dishes, rather than preparing meals from scratch as would typically be expected at a takeaway. Beyond that, these options are not "conventional hot meals"

and are typical cafe affairs. The majority of the serving and preparation space is taken up by cold food options. On the balance of probabilities, it is considered that the existing use would most closely align with a Class E use, and would not represent a conventional hot food takeaway.

On that basis, the proposal can proceed under Class G.

Class G Conditions

Class G.1 lists a series of conditions which a proposal would have to conform to. These have been assessed below. For the ease of comprehension, the following assessment is divided into considerations of a-c and then d.

Conditions a-c

Class G.1 states that:
"Development permitted by Class G is subject to the following conditions
(a)some or all of the parts of the building used for a use within, as the case may be, article 3(6)(n) (betting office) or 3(6)(o) (pay day loan shop) of, or Class E of Schedule 2 to, the Use Classes Order is situated on a floor below the lowest part of the building used as a flat;
(b)where the development consists of a change of use of any building with a display window at ground floor level, the ground floor must not be used in whole or in part as a flat;
(c)a flat must not be used otherwise than as a dwelling (whether or not as a sole or main residence)
(i)by a single person or by people living together as a family, or
(ii)by not more than 6 residents living together as a single household (including a household where care is provided for residents)"

Assessing the proposal against the above, the requirements have been met. The submitted plans show that an existing staircase, which currently serves as access to the first floor, would provide means of access to the flat. The Order provides a definition of a flat which is "a separate and self-contained set of premises constructed or adapted for use for the purpose of a dwelling and forming part of a building from some other part of which it is divided horizontally". The corridor and staircase would be solely used to provide a means of access to the proposed upper floor flats. Therefore, no part of the ground floor would be used in whole or in part as a flat. In any event, it is questionable whether the window on site is a "display window" in the conventional sense, as no goods are displayed in the window.

The requirements have therefore been met.

Class G.1(d)

Class G.1(d) states:
"before beginning 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
(i)contamination risks in relation to the building;
(ii)flooding risks in relation to the building;
(iii)impacts of noise from commercial premises on the intended occupiers of the development;
(iv)the provision of adequate natural light in all habitable rooms of the dwellinghouses;
(v)arrangements required for the storage and management of domestic waste."

Assessing the proposal against the above, the following is considered:

i)The contamination risks are considered acceptable. The site is on the first and second floor, and so typical ground contamination would not be an issue.
ii)The site is within Flood Zone 3 of the Environment Agency Flood Maps for Planning. However, within the South East Lincolnshire Flood Risk Assessment, which contains more refined flood modelling data, the site is outside of any identified hazard zone. On that basis, the tangible flood risk on the site is low. In any event, as a first floor dwelling, the potential for harm to property or life is low.
iii)The downstairs building has operating hours of 8am till 8pm under H16-0114-23. The existing business on site operates between the hours of 9am till 3pm during the week, and 9am till 2pm on Saturdays.
These hours are typical of town centre uses, and would not give rise to an overly significant or detrimental noise impact during sensitive hours. The comments of the Environmental Protection Officer are noted; however, Class G would not enable external alterations, and as such,

conditioning the upgrades would not necessarily be possible. In any event, it is considered that the existing arrangement would be suitable as is.
iv)The submitted proposed floor plan shows a kitchen diner adjacent to the sole window serving the first floor. The lounge would be further back, partially behind a wall, and would be approximately 6.7m from the window, with the furthest point being approximately 9.5m. The window has a height of approximately 1.1m, and is approximately 3.5m wide. The internal arrangements can be seen as being indicative, as internal alterations would not constitute development under the Town and Country Planning Act. On this basis, the assessment of the adequacy of light must be taken on the room as a whole, rather than the individual room arrangements. As such, and based off of the figures provided by the Applicant, it is considered that adequate light has been provided.
v)Waste would be stored internally, before being taken to the kerb for weekly collection. This arrangement is considered suitable.

The proposal has met the requirements of Condition d.

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

Recommendation

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