DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0644-24**	**Applicant:**	**Harrison Springfield Property Ltd**
Proposal:	Change of use of existing building from dance/fitness studio (class E) to 2 x 1-bed flats and 5 x 2-bed flats (class C3) including the formation of a pitched roof to existing single-storey projection - approved under H16-1131-21. Amendment to reduce units from 7 to 6		
Location:	38 Spring Gardens Spalding Lincolnshire		
Terminal Date:	26th August 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This non material amendment application proposes the reduction of the amount of proposed residential units within the flatted development approved under H16-1131-21 from 7 units to 6.

The proposed amendment results only in internal amendments to the proposed internal layout, including the omission of a proposed mezzanine floor.

Site Description

As in host application.

History

As in host application.

Consultation Responses

None sought

Planning Considerations

The Local Planning Authority has powers under Section 96A of the Town and Country Planning Act 1990 to make a "non-material" change to a planning permission if the Local Planning Authority is satisfied that the change is not material. There is no statutory definition of "non-material"; this is because it is dependent on the context of the overall scheme. As such, an amendment that is considered to be non-material in one context, may be material in another.

South Holland District Council has therefore introduced a system whereby 'minor amendments' to a scheme can be considered as a way of allowing the planning system to respond in a reasonable and flexible manner to small changes to an approved scheme without seeking a fresh application.

South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions" indicates that non-material amendments will be approved subject to the following criteria being met:

1. There would be no alteration to the application site boundary (red edge).
2. The amendment would not conflict with Development Plan Policies or other Government Guidance.
3. The proposal would not exacerbate concerns raised by third parties at original planning application stage.
4. The proposed change would not be contrary to a condition on the original approval.
5. The approved footprint/siting of the building will not be moved materially and will not have a material impact on a neighbour.
6. The height of the building or extension would not be increased.
7. The amendment would not result in any potential overlooking of any neighbouring property.
8. The amendments must not result in a fundamental change in the design of the building.
9. The proposal does not amount to new works or elements not considered by any Environmental Statement submitted with the application.

The criteria set out above are designed to prevent amendments being accepted that would have a detrimental impact upon neighbours or amenity in the wider public interest.

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

1.There would be no change to red line boundary or application site

2.The amendment would not conflict with any government guidance or any provisions within the Local Plan

3.The amendment would not conflict with any of the conditions placed upon H16-1131-21.

4.The proposal would not exacerbate any concerns raised during the consultation process of the original application. In fact, it would actually partially alleviate some concerns raised, as several public comments expressed concern over the capacity of the site, and the stresses that would place upon parking and noise generation etc. The reduction of the proposed quantity of units reduces those possible effects.

5. There would be no change to the siting or footprint of any buildings

6. The proposal would not result in an extension to the approved development

7. The height/volume of the building or extension would not be increased or significantly reduced

8. The removal of render would not fundamentally alter the design of the extension. The extension would be largely obscured from the public realm, ensuring there is a minimal character impact regardless of the materials used. The use of matching brickwork would likely tie the conservatory into the host to a greater extent than the render.

9.The original application did not contain an environmental statement.

As such, when taking account of the above and the modest extent of the amendment proposed, the proposal is considered to be non-material.

Conclusion

The proposal complies with the criteria of the South Holland District Council's "Development Control Procedure Note: Non-Material Amendments to Planning Permissions", and as such is acceptable as a Non-Material Amendment.

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.