

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0653-23 **Applicant:** API Ltd

Proposal: Change of use from house in multiple occupation to two flats - Retrospective

Location: 136 Roman Bank Spalding

Terminal Date: 18th September 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
17	Providing a Mix of Housing
18	Affordable Housing
21	Houses in Multiple Occupation and the Sub-Division of Dwellings
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0

OTHER STATUTORY BODIES	0	0	1	0
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks full planning permission for the change of use from house of multiple occupancy (HMO) to two flats. The application is retrospective, with the works having been completed in 2018.

Two flats have been created: a ground-floor, single bedroom flat with a floor space of 46sqm; and a first-floor, one-bedroom flat with a space of 31sqm. While the plans refer to unit 2 as a studio flat, it is considered that the proposal fails to conform to the definition of a studio flat, and as such, is to be treated as a one bedroom dwelling.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South-East Lincolnshire Local Plan, 2019. The property is located towards the north-east of the settlement, in the Fulney area. The site is located to the north of 136 Roman Bank, sitting approximately 250m south of the confluence of the Welland and Coronation Chanel.

The dwellings are located on a private drive off of the main road of Roman Bank. The property is a red brick terraced, typical of the area. A small, pebbled front garden is present. A sizeable rear garden is present, with access being available from a rear private drive. No on-site parking is present, although this is typical of this stretch of Roman bank.

Relevant History

H16-0385-98 - Full. Proposed conservatory. Approved 28/05/98.

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:

Highway and Lead Local Flood Authority

No objection:

The change of use for which permission is being sought in this Application does not include any changes to be made to the existing access to the property - which is pedestrian access only. The absence of any off-street car parking is not considered, by the highway authority, in this location, to be sufficient cause for withholding the grant of Consent on highway safety grounds and therefore the highway authority does not wish to object to this Application.

SHDC Environmental Protection Officer

No comments

Environment Agency

No objection, subject to conditions

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, one letter of representation has been received.

This can be summarised as:

- Untidy garden
- Residents place refuse out too early
- Blockage of foul water drains

Key Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The South-East Lincolnshire Local Plan 2011-2036 (SELLP) adopted March 2019 is the development plan for the district and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2021 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre and provide wider sustainable benefits to the area. It is accepted that the location is within a sustainable area, where residents would have access to services via sustainable methods of transport and would also make a positive contribution to local housing stocks.

Therefore, the proposal is considered to be in accordance with Policy 1 of the SELLP. The principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that

the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

As no exterior changes are proposed, it is considered that the aesthetic impacts of the change of use are negligible.

It is considered that the conversion would not represent a significant change of character in the area. The property would still have a residential use and there would not be a significant increase in the intensity of the use.

The resident's comments regarding the untidiness of the garden have been noted. However, it is judged that this untidiness is not as a result of the use as flats and could just as likely occur if the property was still a single residence.

On balance, it is considered the proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

No external alterations are proposed, therefore, no additional overshadowing or overlooking would occur. The previous use, though not approved by the Council, was an HMO; therefore, the proposed reduction in bedrooms would result in a decrease in potential noise pollution. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 111 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable

modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

While no off-street parking spaces are provided, this is typical of the area. The location down a slip road means that residents can safely park, without needing to park on the main road. The residents would also have access to services via sustainable means of transport, reducing the need for a private vehicle.

As residents would have access to a wide range of services via sustainable means of transport, it is considered that the proposal does achieve the aims of Policy 33 of the SELLP and Section 9 of the NPPF. The relevant consultee from the Highway department stated that they raise no objection to the proposal.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Policy 4 of the SELLP relates to the management of flood risk. The policy steers development to areas of lower flood risk and requires suitable mitigation methods when development occurs within a flood zone. This is inline with Section 14 of the NPPF.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South-East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan, including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the SELLP is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the SFRA as a basis to consider flooding.

Within the SFRA the site is classed as "danger for all", with a hazard depth of 1-2m. The application proposes the installation of a de-mountable flood defence barrier to the front door as well as tenants signing up for the Environment agency's early warning system to reduce the impacts of flooding. The Standing Advice Matrix, 2016, issued by the Environment Agency states that, within the flood risk parameters outlined above, ground floor living accommodation is unacceptable.

The proposed ground floor flat is contrary to the Environment Agency's standard advice matrix. It would be extremely vulnerable to the adverse impacts of flooding and place residents at undue risk of harm. The potential negative impacts are exacerbated by the lack of refuge available to residents. If the property was a dwellinghouse, or its previous use as an HMO, then residents would be able to access the first floor of the property to seek refuge in the event of flooding, this is not possible as a ground floor flat.

While the proposal would see the reduction of ground floor sleeping accommodation, and therefore on the surface appear as an improvement, the removal of safe refuge would significantly increase the potential impacts of flooding.

It is proposed that a de-mountable flood defence be installed. This constitutes an active flood resistance method. It is considered that this is insufficient given the potential flood depths and the increased vulnerability of a ground floor flat. No resilience measures are given within the application. Given the fact that the resistance measures are insufficient to prevent the entry of water

to the dwelling, it is considered that the lack of resilience measures would further exacerbate the potential impacts of flooding, leading to the severe damage to the property and the resident's possession.

The Environment Agency has raised no objections, subject to the measures outlined in the FRA being put in place. The consultee went on to state at a Flood Warning and Evacuation Plan (FWEP) should be submitted. It is considered that this would reduce the potential for harm to the resident. Despite this, it is considered that even if a suitable FWEP was submitted, the proposed use and any occupants would still be vulnerable to the economic and emotional cost of flood damage.

As such, it is considered that the ground floor accommodation is unsuitable in this location. The potential flood depths of up to 2 metres would overtop any mountable flood defence and as no resilience measures are proposed, the occupants would be vulnerable to the economic and emotional costs of flood damage. The occupants would not have access to a safe refuge, putting them, and their belongings, at undue risk of harm even if a FWEP was in place. Therefore, the proposal fails to conform to Policy 4 of the SELLP as well as Section 14 of the NPPF.

Sub-Division of Dwellings

Policy 21 of the SELLP sets out the requirements for a site to be sub-divided into multiple dwellings or an HMO. Proposal will be assessed against eight criteria and required to conform to the Nationally Described Space Standards (NDSS). All eight criteria must be met. Assessed against these criteria, the following is considered:

- 1) The conversion would result in the loss of a family sized dwelling a relatively high-density area, characterised by terraced and semi-detached property. The conversion would see the loss of a three-bedroom dwelling. Within Policy 17 of the SELLP, it is stated that this variety of dwelling is the most desirable and has the highest demand in the district. It is therefore considered that the proposal fails to achieve the aims of Criteria 1.
- 2) The proposal would not significantly harm the amenities of adjoining neighbours for the reasons outlined in the "Impacts on Residential Amenity" section of this report. The proposal therefore conforms to Criteria 2.
- 3) For the reasons stated in the section "Layout, Design, Scale and Consideration of the Character of the Area", the proposal would not have an adverse impact upon the character of the area. The proposal conforms to Criteria 3.
- 4) No details of the refuse storage arrangements have been submitted.
- 5) The proposal would not create a significant increase in on street parking or impede highway safety. The proposal conforms to Criteria 5.
- 6) The site does provide residents with the necessary services via walking and cycling. Shops are located nearby, and the town centre is a short work away. The proposal conforms to Criteria 6.
- 7) The proposal fails to provide a high quality of residential amenity and amenity space for occupants due to the insufficient floor space available.
- 8) Residents would have access to a shared garden space. Therefore, the proposal conforms to Criteria 8.

9) Finally, the proposal must conform to the NDSS. NDSS has nine requirements to be met.

Assessed against the NDSS the following is considered:

Flat 1 has an internal floorspace of approximately 46sqm. The NDSS requires a gross internal floor space of 39sqm. The bedroom measures 10sqm and therefore achieves the required 7.5sqm. Flat 1 achieves the requirements of the NDSS.

Flat 2 has an internal floorspace of approximately 31sqm. The NDSS requires a minimum of 39sqm. The proposal substantially falls short of this requirement.

The proposal would result in the loss of a family sized dwelling, there is a lack of amenity space, and the proposal dramatically falls short of the required space standards under the NDSS. As such, it is considered that the proposal fails to conform to Policy 21 of the SELLP and the sub-division of the dwelling is unacceptable. In failing to meet these requirements, the proposal also fails to achieve the aims of Policies 2 and 3 of the SELLP as well as Section 12 of the NPPF, all of which seek to create high quality amenity and good living conditions.

The proposal contradicts Policies 2, 3, and 21 of the SELLP as well as Section 12 of the NPPF.

Any Other Considerations

The received neighbour comments were considered as part of this decision. The comments

regarding the untidy garden and the blocked drain were considered to not carry significant weight. Maintaining gardens and drains is not an issue specific to the planning application but is a more general point on how the occupants care for their dwelling. It is considered these issues could occur regardless of if the property is sub-divided or not.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

Despite largely conforming to Policies 1, 33 and 36 of the SELLP, the proposal significantly falls short of the requirements of Policies 2, 3, 4 and 21. The proposed ground floor flat represents a significant flood risk that will place occupiers at undue risk of flooding. Flat 2 fails to meet the requirements of the NDSS. As the proposal would fail to achieve the aims of Policy 21, it would represent unsatisfactory development that fails to achieve the aims of Policy 2 and 3 of the SELLP and Section 12 of the NPPF. The proposal therefore represents unsustainable development as defined in Section 2 of the NPPF.

The proposal represents an unsuitable and unsustainable form of development, which would create a poor-quality environment for its occupiers, detrimental to their wellbeing. The planning balance is against the proposal.

Conclusion

Taking into account these factors, the proposal is considered that largely comply with Policies 1, 33 and 36 of the SELLP and Section 9 of the NPPF. However, the proposal would fail to conform to Policies 2, 3, 4, 21 of the SELLP as well as Sections 2, 12 and 14 of the NPPF. The proposal should therefore be refused.

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.

Recommendation

It is recommended that the proposal be refused under Delegated Powers.