DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0679-25**	**Applicant:**	**M Yousaf & T Mahmood**
Proposal:	Change of use, conversion & extension of The Black Swan to retail unit & 10 self-contained apartments		
Location:	12 New Road Spalding Lincolnshire		
Terminal Date:	29th October 2025		

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
28	The Natural Environment
29	The Historic Environment
30	Pollution
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
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
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

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	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	2
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	2
SHDC INTERNAL	0	0	2	0
OTHER STATUTORY BODIES	1	0	0	3

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the change of use, conversion & extension of The Black Swan to provide a retail unit & 10 self-contained apartments.

The proposals include a retail unit retained at ground floor, to the front of the building, with residential units above. There are also residential units proposed on the ground floor and first floor to the rear, inclusive of the proposed extension.

The extensive works would relate to the extension of the rear part of the PH which includes a two-storey rear extension along the boundary with number 10 New Road. An existing access is located between numbers 14 & 15 New Road, and this is where historically the Black Swan has had its parking located. The site location plan confirms that the site is within the ownership of the applicant. A total of 10 number spaces are provided with turning area, cycle storage and refuse storage all contained to the rear of this car park.

Site Description

The Black Swan Public House is itself a Grade II listed building and has been in Long-term use as a Public House. Whilst the PH has been vacant for some time, its planning use as a PH is still valid.

The building was listed in 1974. The Black Swan is adjoined to another Grade II listed building, which is a separate commercial premises, but looks to have been constructed as part of the same building, evidenced by the continuation of the same ashlar with parapet eaves containing spherical finials.

The site sits near to a number of other Grade II listed sites, including Nos. 3 to 5 New Road, and the Punch Bowl Public House, to which is on the opposite side of the road.

The site also lies within a significant element of the Spalding Conservation Area (SCA), as it forms a part of the Spalding Town Centre and is one of the primary shopping/commercial/entertainment areas of the town. Moreover, New Road is a primary thoroughfare into the town and is therefore significant to impressions of the character of the town.

History

H16-1616-06 - Internal and external alterations and formation of external timber raised decking. Withdrawn.

H16-0512-07 - Formation of new disabled toilet facilities, new raised external decking and associated external works. Approved 13-06-07

H16-0335-19 - Installation of replacement illuminated and non-illuminated signs to exterior of the building. Refused 14-05-19

H16-0729-19 - Installation of replacement illuminated and non illuminated signs and repainting of the exterior - re-submission of H16-0334-19. Approved 23-09-19

Whilst the application site comprises a listed building and the proposal seeks to extend, convert and alter the built form, the Local Planning Authority have not been in receipt of an application seeking listed building consent, although this would eb required given the nature of the proposed development/works.

Consultation Responses

Anglian Water

Anglian Water OBJECTS to this application due to a lack of information from the applicant therefore, we are unable to make an informed assessment. The applicant has not provided a drainage strategy or identified a connection point into our network, therefore, the development has the potential to have an unacceptable risk of flooding/or pollution from the network. To overcome our objection, the applicant needs to provide further detail regarding their foul proposals for the development.

South Holland IDB

Thank you for consulting Water Management Alliance on the full planning application below. This site is located outside any WMA member Board District. For this reason, we have no comments.

Environment Agency

As outlined in the submitted flood risk assessment, the site is situated in Flood Zone 3 but outside of the SFRA hazard map extents. Therefore, in line with cell G7 of the South East Lincolnshire Flood Risk Advice Matrix, we have no comments to make on this application.

Spalding District Civic Society

We are happy with this proposal as it provides needed town centre accommodation with parking. We note there is no front elevation shown so we will expect a further planning application for the retail unit signage at a later date.

Historic Environment Officer

Recommendation: I recommend that if permission is granted, there be a condition for a mitigation strategy to effectively deal with this site. This will comprise a phased programme of mitigation work including, but not limited to, a level 3 historic building recording of the former public house, in accordance with Historic England's document 'Understanding Historic Buildings: A Guide to Good Recording Practice'. This will enable any remaining original fabric of the former public house which currently survives on this site to be recorded prior to the conversion. This should be secured by South Holland District Council's standard conditions AR01, 02 and 03 and is in accordance with National Planning Policy Framework paragraphs 200 and 211 and the South East Lincolnshire Local Plan (Policy 29).

Highways & SuDs Support

Clarification is required as to who currently parks to the rear particularly as the public house is no longer in use.

Where will these people park? As this is a Major application a Drainage Strategy is required - I am happy for it to be a statement and accompanying drawing.

Lincolnshire Police

Lincolnshire Police do not have any objections to this development

Pedals

(On behalf of PEDALS) - we appreciate the provision of cycle storage, but I have not detected the quantity or nature of the cycle stands. We hope they are of the Sheffield type as per the guidance we have offered, and that they are under a roof.

Welland & Deepings IDB

Further to receipt of the above, I confirm that Welland & Deepings IDB have no comment to make.

Environmental Protection Officer

No observations & No comments regarding land contamination

Evaluation

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Planning Considerations

These are the key issues related to this development:

- Planning Principle
- Loss of a Community Facility
- Provision of Retail Space
- Historic Environment
- Character & Design
- Highway Safety
- Flood Risk & Drainage
- Environmental Issues & Amenity
- Ecology & BNG
- Planning Balance

Principle of Development

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework 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 in respect of sustainable development 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 application site lies within Spalding, defined as a Sub-Regional Centre. The policy states that "Within the settlement boundaries of Boston and Spalding (as shown on the Inset Maps) development will be permitted that supports their roles as Sub-Regional Centres".

Accordingly, the location and overarching principle is, in general terms, suitable for development. However, the site also falls within the defined Town Centre Boundary (albeit outside the primary shopping area) and relates to an existing community facility. The principle of development therefore requires consideration under two sub-headings:

1.Loss of a community facility
2.Impact upon the town centre

Loss of community facility

Policy 32 (Community, Health and Well-being) of the South East Lincolnshire Local Plan (2019) seeks to promote socially-cohesive and inclusive communities, reduce health inequalities, and improve community well-being. The policy sets clear criteria for development proposals that seek to the redevelopment or change of use of existing community facilities. Policy 32 is clear in that development will only be permitted if one of the following can be demonstrated:

"1. An assessment has clearly shown that the facility is:
a. Surplus to requirements; or
b. Not economically viable; or
c. Unfit for purpose; and
d. In the case of recreational open space, does not make an important contribution in amenity, visual or nature conservation terms; or

2. The loss resulting from the proposed redevelopment or change of use will be replaced by equivalent or better provision (in terms of quantity and quality) in a suitable nearby location; or

3. (In the case of sports facilities or recreational open space) the redevelopment or change of use is for alternative sports or recreational provision, the need for which clearly outweighs the loss".

Paragraph 98 of the National Planning Policy Framework (December 2024) is also directly relevant, identifying public houses as "social, recreational and cultural facilities." It states that "To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should: (c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs".

Further to correspondence between the case officer and the applicants agent, in support of the application, a marketing report prepared by Everard Cole has been submitted. The report summarises the marketing process as follows:

Price
The Everard Cole report explains the valuation of £225,000 plus VAT, and includes evidence of nine comparable public house sales in different regions. While The Black Swan appears competitively priced within that context, the report provides limited explanation of direct comparability beyond the fact that the properties are also public houses; and as such, the exact nature of these are unknown. Nevertheless, it is accepted that the asking price was reasonable.

Platforms / Publication

The property was marketed on both the Everard Cole website and Rightmove, although direct evidence of the Rightmove listing has not been provided. Marketing was also undertaken via the agent's internal database mail-out.

Market Details
The property was clearly marketed as a public house, with the sale brochure and accompanying information confirming the intended use.

Interest
The marketing report records only one party expressing serious interest, which progressed to an offer that was later withdrawn following a building inspection.

Time on the Market
Marketing commenced on 1 December 2023, with an offer made and accepted in June 2024.

This evidence demonstrates that there was an active market for the property as a public house in 2024, culminating in its sale to the current applicant as a going concern. However, this marketing was prior to the current owners obtaining the site.

However, no marketing evidence has been submitted by the applicant following their purchase. The only reference is an email dated 7th October, which states: "we asked around by word of mouth and had a couple people to view the premises, but showed no interest in leasing the building".

This informal exercise falls notably short, and below, of demonstrating that there is no continuing market for the existing public house use. To the contrary, the earlier professional marketing campaign which is detailed above, led to a successful sale, whereas no equivalent effort has been made by the applicant to evidence the absence of demand since acquisition.

Under Paragraph 98 of the National Planning Policy Framework (December 2024), the Local Planning Authority has a duty to guard against the unnecessary loss of valued community facilities. On the evidence provided, the applicant has not demonstrated that the public house use is surplus to requirements or no longer viable.

Accordingly, the proposal is considered to be contrary to Policy 32 South East Lincolnshire Local Plan (2019) and Paragraph 98 of the National Planning Policy Framework (December 2024).

Impact upon the Town Centre

Section 6 of the National Planning Policy Framework (December 2024) details that "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development".

Section 7 of the National Planning Policy Framework (December 2024), relating to 'Ensuring the vitality of town centres', details that "Planning policies and decisions should support the role that town centres play at the
heart of local communities".

Policy 24 of the South East Lincolnshire Local Plan (2019), in accordance with the above, sets out the The Retail Hierarchy for the plan area. This policy identifies Boston and Spalding as the principal town centres for retail, leisure, and related uses.

Policy 24 states that "The town centres of Boston and Spalding (as defined by the Town Centre Boundaries) will be the locational focus for the development of town centre uses. The provision of markets and other appropriate initiatives that would enhance the vitality and viability of Boston and Spalding town centres will be supported".

Policy 25 (Supporting the Vitality and Viability of Boston and Spalding Town Centres) of the South East Lincolnshire Local Plan (2019) further states that "Boston and Spalding town centres will continue to be the primary destinations for retail, entertainment, markets and events while their rich environmental qualities can be promoted, enhanced and appreciated".

The application proposes residential accommodation above a ground-floor "commercial unit,"

described within the Design and Access Statement as "a retail unit to keep the commercial aspect".

Given that the site is located within the defined Town Centre Boundary and given the inclusion of a retail element, the proposal aligns broadly with Policies 24 and 25 of the South East Lincolnshire Local Plan (2019), in maintaining a level of commercial activity at street level.

Historic Environment

The application site is located within the Spalding Conservation Area and comprises a Grade II listed building.

In respect of any buildings or other land in a conservation area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990.

In assessing proposals of this nature, the Local Planning Authority must ensure special regard to preserving the Listed Buildings and their settings in relation to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the 'Act'). No harm should be caused with the historical assets and their surroundings requiring to be preserved or enhanced.

The National Planning Policy Framework (NPPF) (December 2024) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (December 2024) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Policy 29 of the South East Lincolnshire Local Plan (2019) is concerned with the Historic Environment. Its purpose is to conserve and enhance the distinctive elements of the South East Lincolnshire historic environment.

Policy 29 states, amongst other matters, that the distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced, in keeping with the policies in the National Planning Policy Framework (December 2024). Development proposals will expected to conserve and enhance the character and appearance of designated and non-designated heritage assets, including archaeology, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design.

Part A of Policy 29 relates to listed building and states:

1. Proposals to change the use of a Listed Building or to alter or extend such a building will be granted where the Local Planning Authority is satisfied that the proposal is in the interest of the building's preservation and does not involve activities or alterations prejudicial to the special architectural or historic interest of the Listed Building or its setting.
2. Proposals involving the demolition of Listed Buildings will not be permitted, unless in an exceptional case, or wholly exceptional case (depending on their grade) where a clear and convincing justification is made in line with national policy . South East Lincolnshire Local Plan 2011-36
3. Proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building.

Part B relates to Conservation Areas it states that "Proposals within, affecting the setting of, or affecting views into or out of, a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting"

Part C is also relevant and relates to archaeology.

The applicant proposes to extend to the rear of the existing listed building, demolishing only a small part (which is described by the applicant as a covered walkway). The proposals would not only extend to the rear of the site, but a first floor would also be erected.

Whilst the built form in which would be extended upon may not include the original building, this part of the building forms part of the overall listed (by virtue of curtilage). The plans provided by the applicant are described as 'part elevations' and they do not include any elevation of the main public house. This makes an assessment of the impact against the listed building difficult to make.

The application was accompanied by a Design and Access Statement, which incorporated a 'Heritage Impact Assessment'. Notwithstanding this, the statement provides overarching references to the listed building and development hereby proposed. The statement fails to provide detailed or in-depth details of the listed building, fails to highlight the assets significance, nor provides a suitable or adequate assessment of the proposed developments potential impact or harm upon the assets significance; whether this be the host Grade II listed building, nearby listed buildings or Spalding Conservation Area.

Paragraph 212 of the National Planning Policy Framework (December 2024) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

Paragraph 213 of the National Planning Policy Framework (December 2024) states that "Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of: grade II listed buildings, or grade II registered parks or gardens, should be exceptional".

Given the level of information provided, the Local Planning Authority cannot make an appropriate assessment of harm to, or loss of significance. The applicant (under NPPF Paragraph 207) has a duty to describe the significance of the heritage assets affected (both listed building and wider conservation area), including any contribution made by their setting. The level of detail is not sufficient to understand the potential impact of the proposal on their significance.

The proposal therefore provides insufficient information to properly assess the impact upon the grade II listed building and wider conservation area.

Beyond this, the proposal seeks a large extension, comprising a resultant two storey built form. The proposed enlargement is relatively extensive and in itself, is considered to be unsuitable for the application site and the host built form. In this regard, even in the absence of an adequate or appropriate heritage impact assessment, the Local Planning Authority have concerns that, given the extensive scale and increase in height, there would be an impact upon the listed building, which itself is likely to lead to less than substantial harm. Given the other matters raised within the report, the proposal is not considered to provide public benefit that would outweigh such harm and as such, beyond the lack of adequate information or assessment provided within the submission in this regard, the proposal would give rise to unacceptable harm, without an outweighing benefit.

The proposal is therefore considered to be contrary to Policy 29 of the South East Lincolnshire Local Plan (2019) and Section 16 of the National Planning Policy Framework (December 2024).

Environmental Issues & Amenity

Policy 2 of the South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Policy 30 of the South East Lincolnshire Local Plan (2019) is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important considerations when considering proposals for planning.

The proposal is for a mix of retail and residential and is within the town centre boundary, there is also ample parking shown to the rear. In terms of its use, the proposal is unlikely to give rise to amenity impacts and the retail element would be subject to operation hours conditions, in any case

where the proposal would be supported.

In terms of the form, whilst there is an increase in height, the neighbouring properties are commercial and are therefore unlikely to suffer from the same harm from overshadowing as if these rear yards were serving residential occupants. Furthermore, all openings are positioned towards the proposed parking area and therefore there would be only limited impacts regarding overlooking, which is considered acceptable in this location.

Internal Amenity

The proposed floor plans show that all internal spaces meet with the Nationally Described Space Standards, showing a mix of single persons and 2 personals accommodation. Furthermore all habitable rooms would be served by at least one opening allowing day light into that room. Therefore the proposal would provide an acceptable level of internal amenity for future residents.

It is of note that no external amenity is provided; however, given that the proposal is for apartments and not Houses in Multiple Occupation and the Sub-Division of Dwellings, then the requirements of Policy 21 of the South East Lincolnshire Local Plan (2019) are limited in weight.

Whilst the omission of such an area of amenity is not ideal, the application site is located close to town centre public realm and parks as well as commercial leisure activities and in this instance is considered acceptable.

On this basis the proposal is considered to accord with Policies 2 and 30 of South East Lincolnshire Local Plan (2019) in regard to residential amenity.

Highway Safety

Policy 2 of the South East Lincolnshire Local Plan (2019) 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 36 is of the South East Lincolnshire Local Plan (2019) concerned with Vehicle and Cycle Parking it states that "All new development, including change of use, should provide vehicle and cycle parking, in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (in Appendix 6).

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. It 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.

The Highway Authority have been consulted and have requested additional information stating 'Clarification is required as to who currently parks to the rear particularly as the public house is no longer in use. Where will these people park?'

However, the proposed parking is laid clear on the block plan, providing 10 number spaces. The access is an existing access and would remain unaltered. Moreover, weight should be attributed to the existing use (as a PH) and the likely significant traffic movements that could be brought through this existing use. Furthermore, given the location of the application site close to the other town centre services and amenities, including public transport and the town centre car parks, the level of parking shown (as well as cycle store is likely acceptable).

On this basis the proposal would accord with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan (2019) and Section 9 of the National Planning Policy Framework (December 2024).

Flood Risk & Drainage

Policy 4 of the South East Lincolnshire Local Plan (2019) sets out the districts approach to flood risk, it states 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, where:

The application is supported with a site-specific flood risk assessment, covering risk from all sources of flooding including the impacts of climate change

The applicant has provided a Flood Risk Assessment. The existing classification (as a public house) is likely to be 'less vulnerable' and this type of residential accommodation is also considered within the same vulnerability class

It is therefore acceptable in flood principle terms.

Drainage

This proposal is a major development (10 or more residential planning utils as well as the retail element). Therefore, it needs a principle drainage strategy and this is confirmed by LLFA comments.

That said, the application confirms that the foul would be directed to a mains sewer and surface water also directed the same. Whilst not in line with the SuDs hierarchy, given the application site is located within such a dense urban area, this is likely to be the only sensible solution (though reasons for discounting Suds would need to be evidenced). The application site evidently already has a connection and therefore there is no reason why a drainage strategy could not be conditioned in this instance.

On this basis the proposal would accord with Policy 4 of the South East Lincolnshire Local Plan (2019).

Biodiversity Net Gain

Policy 28 of the South East Lincolnshire Local Plan (2019) is concerned with the Natural Environment. Points 2 and 3 are relevant to this assessment. Point 2 is concerned with Nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.
"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:
(a) a Biodiversity Gain Plan has been submitted to the planning authority, and
(b) the planning authority has approved the plan, or
(c) the development is exempt from the biodiversity gain condition.

Unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

The applicant has submitted a statement, which considers that this development would be exempt from BNG. Given the existing scenario (a car park) and this limited extension of the proposed

footprint (much of the form is at height), then LPA considered that this is an accurate position taken by the applicant and BNG is not required.

The proposal is considered to accord with Policy 28 of the South East Lincolnshire Local Plan (2019).

Planning Balance

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

In this case, the proposed development would bring some clear benefits. The scheme would deliver the re-use of a long-vacant Grade II listed building within the town centre and would provide ten residential apartments, in a highly sustainable location, where residents would have access to shops, services, and public transport.

The introduction of a retail unit at ground floor would retain an element of commercial activity on this prominent frontage and contribute modestly to the vitality and viability of Spalding town centre. Furthermore, the proposal makes efficient use of previously developed land and would contribute to local housing supply, in line with the general objectives of the National Planning Policy Framework (December 2024) to support the re-use of vacant or underused buildings and promote sustainable patterns of development.

However, these benefits must be weighed against the identified harms and policy conflicts. The proposal fails to demonstrate that the public house use is no longer viable, or that there is no continuing community need for such a facility. This is therefore contrary to Policy 32 of the South East Lincolnshire Local Plan (2019) and paragraph 98 of the National Planning Policy Framework (December 2024). The loss of this valued community facility has therefore not been justified.

In addition, insufficient information has been provided to enable the Local Planning Authority to properly assess the impact of the proposed works on the Grade II listed building and the wider Spalding Conservation Area. This absence of detail prevents the necessary understanding of the level of harm that may arise, contrary to Policy 29 of the South East Lincolnshire Local Plan and paragraphs 207, 212, and 213 of the National Planning Policy Framework (December 2024). In addition, based on the detail before the local Planning Authority, given the notable scale and increased height proposed within the proposed extension, the proposal is likely to lead to less than substantial harm. Given the above, it is not considered that such harm is outweighed by a public benefit.

Whilst matters relating to access, flood risk, drainage, residential amenity, and environmental protection could likely be resolved through the use of conditions or the submission of further information, the issues concerning the loss of a community facility and the impact on designated heritage assets are fundamental and go to the heart of the decision.

Taking the above into account, it is concluded that the harm arising from the unjustified loss of a community facility and the failure to adequately assess and safeguard the significance of designated heritage assets would significantly and demonstrably outweigh the identified benefits of the proposal, when assessed against the policies of the South East Lincolnshire Local Plan (2019) and the National Planning Policy Framework (December 2024) as a whole.

Accordingly, the proposal is considered to be contrary to the Development Plan, and there are no material considerations that would indicate that planning permission should be granted other than in accordance with it.

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

Taking the above considerations into account, the proposal is NOT considered to accord with policies 1, 29, & 32 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (December 2024).