DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0818-24**	**Applicant:**	**Harrison Springfield Property Ltd.**
Proposal:	Details of arrangements for public and/or private refuse/recycling collection and details of boundary treatments including schedule of walling, railing & fencing levels, heights and materials (Conditions 9 & 12 of H16-1131-21)		
Location:	38 Spring Gardens Spalding		
Terminal Date:	25th November 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Section 12 - Achieving well-designed and beautiful places
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	1	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

This application is for the discharge of Condition 9 and 12 of H16-1131-21. These conditions read as follows:

Condition 9: "Prior to the occupation of any dwelling, full details of the arrangement for public and/or private refuse/recycling collection shall be submitted to and approved in writing by the Local Planning Authority. The approved management arrangements shall be implemented upon first occupation of any dwelling and thereafter retained for the lifetime of the development.

Reason: This application has been approved on the basis that waste collection will be carried out by a private company and to ensure appropriate arrangements are in place for the collection of refuse/recycling, in the interests of the setting of this listed building and the visual character of this part of the Conservation Area in which it is set.
This Condition is imposed in accordance with Policies 2, 3, 29 and 30 of the South East Lincolnshire

Local Plan, 2019."

Condition 12: "Prior to its installation, details of the proposed boundary treatments, including a detailed schedule of walling, railing and fencing levels, heights and materials, to a scale of no less that 1:50 shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the appearance of the development, the impact upon the listed building and the character and visual amenity of this part of the Conservation Area in which it is set. This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019."

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. It is located within the Spalding Conservation Area and abuts the defined town centre. The site is comprised of the Grade II listed 38 Spring Gardens and associated gravelled/ hardstanding area to the north. This gravelled area enables clear views of the Grade II listed form er Police Station and Sessions House.

The building is a visually distinctive structure designed in a High Victorian gothic style, constructed in red brick with vitrified brick and limestone dressings. The building has a western tower entrance bay and a gabled eastern bay dominated by two tripartite windows, with those on the ground floor having cambered shallow arched upper sections and those on the first floor having more rounded arch windows. The frontage of the building is incredibly detailed, with numerous architectural nuances seeking to draw the eye.

Relevant History

H16-0644-24 - NMA. 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. Approved 14/08/24.

H16-0480-24 - Condition Compliance. Details relating to archaeological report, arrangements for public and/or private refuse/recycling collection and boundary treatments (Conditions 5, 9 & 12 of H16-1131-21). Refused 07/08/24.

H16-0005-24 - Condition Compliance. Details of archaeological investigation, foul water disposal & external boxes for gas and electrical supplies (Conditions 3, 11 & 14 of H16-1131-21). Approved 11/03/24.

H16-1131-21 - Full. 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 23/05/22.

H16-1132-21 - Listed Building Consent. 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 23/05/22.

H16-0469-18 - Full. Change of use of the existing building from use class D2 to use class C3, to include four 2-Bedroom apartments and two 1-bedroom apartments, proposed new four storey apartment building including twelve 1-Bedroom apartments, and associated external works and infrastructure. Refused 20/03/19. Appeal APP/A2525/W/19/3227640 dismissed 30/12/19.

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:

"I wish to object to the proposal due to an unacceptably negative impact upon the historic environment as presented by the proposed boundary treatments. It should be noted that Policy 29 of the SELLP confirms that proposals that affect the setting of a Listed Building will be supported where they preserve or better reveal the significance of the Listed Building. Furthermore, it goes on to assert 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. Firstly, it is noted that the applicant has sought in the proposed block plan to retain the existing steel fence which was erected unlawfully without consent. The owner was approached by the SHDC Enforcement Team regarding this matter, and was informed that the fence is inappropriate to the historic setting, presenting a harsh, modern industrial appearance to an otherwise attractive and prominent Listed and conservation area building. It was agreed that due to the ongoing works on the site, enforcement action would not be initialised on the understanding that this fence would be removed as part of the approved works. I am therefore not satisfied that the owner should be permitted to retain the steel fence, owing to the unacceptably harsh visual impact this would have on the setting. Furthermore, the applicant has proposed to utilise a 1.8m standard timber board fence to the front and sides of the site. Not only is the fence itself of an inappropriate style to the setting of the Listed Building, appearing totally modern in the setting of the heritage asset, the applicant has also proposed to 'box in' the historic asset to the northeast side of the property, where there is currently an open plot to the side, it is proposed to partition the listed building physically from the remainder of the plot to the east. Therefore, this 1.8m fence, covering the site from all visible angles would be visually inappropriate in its own right, and due to its height and impermeable visual nature, serve to visually block and imprison the listed building as appreciated from the public realm, inflicting an exceptionally harsh impact upon the asset, and obscuring rather than better revealing the significance of the asset. I therefore recommend that this application be refused for breach of Policy 29 of the SELLP as well as S16 of the NPPF. "

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

Condition 9

The submission highlights an area along the north-east elevation to house four 1100l waste bins (two for recycling and two for general waste. In addition to this, an email has been submitted which reads as follows:

" as per telephone conversation we at CRS (Eastern) Ltd would be happy to supply you with a yearly contract for collect of 2 x 1100L General waste and 2 x 1100L recycling bins at: 38 Spring Gardens, Spalding, PE11 2XL. This is providing that a safe and secure bin shed is provided"

Given the additional sensitivity of the building due its Grade II listed status, it cannot be said that the above constitutes a sufficient level of detail for waste disposal arrangements. The positioning of the bin storage area, in a fairly visible location without proper screening, would be to the detriment of the listed building. Likewise, it is not considered that the submitted email gives a comprehensive overview of how waste would be collected from the site as no details such as the collection vehicle, timing of collections etc are provided.

Furthermore, given the 1.8 metre timber and steel fences proposed between the bin area and the roadside, it is not abundantly clear how these bins will be emptied.

For the above reasons, it is not considered that condition 9 can be discharged at this time.

Condition 12

The submitted block plan outlines the following boundary treatments:

-A 1.8 metre high timber fence running along the entirety of the south-west boundary. Details of this fence have been provided within a separate scaled drawing
-A 1.8 metre high rendered brick wall along the north-west boundary. This wall appears to be in situ

currently
- A 1.8 metre high timber fence running along the north-eastern boundary level with the building.
-A 1m high timber fence running along the north-eastern boundary, from the principle elevation to the roadside
-A 1.8 metre high steel fence running along the majority of the south-east boundary. No details of this fence have been provided.
A 1.8 metre high fence running along the south-east boundary to the front of the aforementioned steel fence. This would be located immediately adjacent the footpath.

Overall, it is considered that the submitted boundary treatments are unacceptable, given the historic importance of the site, in particular the submitted south-eastern boundary treatments.

The 1.8 metre high timber fence would create an overly harsh boundary treatment, which would prove to be harmful to the enjoyment of the heritage asset. In addition, this treatment result in an increased sense of enclosure in an otherwise fairly open area; and therefore, can be judged to be out of keeping with the established character of the area. This fence would also obstruct views towards the former Police Station and Sessions House, weakening the character of the Conservation Area. Seeing as the Historic England description of the site explicitly references the group value of the these three buildings, the maintenance of this relationship and line of site is seen as particularly important.

Moreover, the 1.8 metre high steel fence, while partially obscured via the aforementioned timber fencing, was judged to be unacceptable within the previous refusal relating to the discharge of this condition (H16-0480-24). This decision notice for H16-0480-24 stated the following: "Moreover, the proposed installation of a steel fence to the side of the listed building would be highly likely to have an unacceptably harsh effect on the setting of the listed building - an effect that cannot be judged appropriately with the sparse details thus far provided". It is considered that this resubmission has failed to adequately address these comments by both not removing or altering the proposed fencing and failing to provide the requested scale drawings for all boundary treatments.

The Conservation Officer has objected to the proposal, stating that the proposal would have an unacceptably negative impact upon the historic environment. The following passages from their comments demonstrate the above argument aptly:

"the (steel) fence is inappropriate to the historic setting, presenting a harsh, modern industrial appearance to an otherwise attractive and prominent Listed and conservation area building"

"the applicant has proposed to utilise a 1.8m standard timber board fence to the front and sides of the site. Not only is the fence itself of an inappropriate style to the setting of the Listed Building, appearing totally modern in the setting of the heritage asset, the applicant has also proposed to 'box in' the historic asset to the northeast side of the property, where there is currently an open plot to the side, it is proposed to partition the listed building physically from the remainder of the plot to the east"

For the above reasons, it is considered that the submitted scheme of boundary treatments is unacceptable and condition 12 cannot be discharged at this time.

Other Matters - Red Line Boundary

The submitted block plan and site location plan both show a redline boundary which exceeds that which was submitted and approved under the original host application (H16-1131-21). That being said, this revised site area was approved under the non-material amendment H16-0644-24.

Likewise, the 1.8 metre high timber fencing to the south-east boundary was also contained within the aforementioned non-material amendment (although the description made no reference to this). Despite this, it is not considered that the details within the non-material amendment inadvertently enabled the erection of this fencing due to the wording of Condition 12 and the details required by said condition. Despite the approval within this non-material amendment, the condition remains undischarged, and the implementation of the boundary treatments approved within said non-material amendment would be unlawful without discharging Condition 12.

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 submitted details fail to adequately address the requirements of Condition 9 or 12 of H16-1131-21. As such, it is considered that neither condition can be discharged at this time.

Recommendation

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