DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1029-21**	**Applicant:**	**Robert Goddard Ltd.**
Proposal:	Alterations to retail space to form one residential apartment unit		
Location:	1 Vine Street Spalding		
Terminal Date:	16th December 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres
26	Primary Shopping Frontages
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

NPPF 2021

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SPALDING & DISTRICT CIVIC SOCIETY	0	0	0	1

RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Alterations to retail space to form one residential apartment unit. This is a change of use from retail to residential use.

It is proposed to remove the shopfronts to the north and east (front) elevations and infill with masonry finished with render to match the existing, windows will be introduced into each elevation, the entrance door will be in the newly constructed extension facing Bedford Place.

SITE DESCRIPTION

The application site consists of the ground floor retail floor space of this building. The site is located within an area of high archaeological potential within the environs of Spalding Priory, in a prominent junction within the Spalding Conservation Area and is within the primary shopping area, as defined within the SELLP. Spalding is defined as a Sub-Regional Centre within the SELLP.

The level of Vine Street alongside the property is approximately 5.35m OD, which is approximately the same level as the area in front of the front door to the shop. The existing floor level of the shop is approximately 100mm above the level of the forecourt.

RELEVANT HISTORY

H16-0368-18. Part demolition, conversion and extension of shop to provide reduced retail floor space and 8 residential units. Approved 02-08-18.

Condition discharge applications relating to the above consent: H16-0017-19, H16-0861-19.

H16-0368-18 was supported by a Flood Risk Assessment (16th April 2018), which is discussed further below.

REPRESENTATIONS

Spalding & District Civic Society

Comments.

The premises is within the town centre boundary and conservation area has been used for retail purposes for several decades. Policy 29 requires that proposals that affect the setting of the conservation area should preserve features that contribute positively to the area's character, appearance and setting. We therefore regret the loss of a retail unit with a prominent position visible from the river that acts as an invitation to passers by and visitors to explore the retail offerings available in The Crescent.

The plans do nothing to give the property the appearance of a residential dwelling as there is no door on the eastern frontage which would be expected given the appearance of the original part of the property. We feel that the inclusion of a door at the centre of the eastern frontage would enhance the appearance of the building. This in turn would give greater flexibility for the premises to be used again for retail, or as an office space at some point in the future.

LCC Highway and Lead Flood Authority

Does not wish to restrict the grant of permission.

The Application Site is within convenient walking distance of a wide range of shops, services, employment opportunities and public transport options for it to not be necessary for residents of the proposed Apartment to have use of a private vehicle. There are public car parks within close proximity of the site.

Accordingly, having due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed change of use of the retail premises, to an Apartment, without dedicated off-street car parking, would not be expected to have an unacceptable impact upon highway safety and does not wish to object to this planning application.

LCC Historic Environment Officer

No archaeological input required.

Public

One comment has been received regarding provision for Swifts.

PLANNING CONSIDERATIONS

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The issues in this case are:

- Change of use and loss of retail floorspace.
- Design and visual impacts upon the Spalding Conservation Area
- Residential Amenity
- Flooding
- Parking
- Archaeology

Change of use and loss of retail floorspace

The NPPF contains a presumption in favour of sustainable development. In terms of determining planning applications it states that this means approving proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.

Section 7 of the NPPF 2021 seeks to protect the vitality of town centres. The NPPF concludes on retail matters by advising that where an application fails the sequential approach or would be likely to have a significant adverse impact, it should be refused. The corollary of this is that if the sequential approach is passed (or is otherwise not relevant) and there isn't evidence of a likely significant impact, permission should be granted.

Policies 25 and 26 of the SELLP deal with the vitality of the town centre and the primary shopping frontages.

Spalding is considered to be a sub-regional centre, by Policy 24:Retail Hierarchy, as defined by the Town Centre Boundary, which is to be the locational focus for the development of town centre uses; planning permission will be granted for retail, food and drink outlets, financial and professional services, leisure and tourist-related uses and residential development.

Policy 25: Supporting the Vitality and Viability of Boston and Spalding Town Centres, is clear that Spalding town centre will continue to be the primary destination for retail, entertainment, markets and events in the District, and the Council will promote appropriate opportunities to support and extend the offer of the town centres as destinations.

Policy 26: Primary Shopping Frontages, sets out that ground floor retail units in the Primary

Shopping Frontages should be retained predominantly for retail use unless it can be demonstrated that the loss of an A1 unit, by change of use or redevelopment will:

1. make a positive contribution to the vitality and viability of the Primary Shopping Frontage;
2. not result in a loss of (A1) retail floor space or frontage of a scale that undermines the retail function of the frontage; and
3. allow upper floors to be effectively used, including the possibility of independent use, where appropriate.

Within the application, the applicant states that the area which is the focus of this application was to be retained as a small retail unit at ground floor level, however it has been unoccupied since the 5th October 2019 and its future as a retail unit is no longer considered viable in a post-Covid retail environment.

On 1 September 2020, the Use Classes Order 1987 (as amended) and the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) were significantly amended, and the new permitted development rights came into force in April 2021 and August 2021. Shop uses, previously classified as Class A, are now considered within new Class E, Commercial, Business and Service Uses.

This updated and consolidated General Permitted Development Order gives certain permitted permanent changes for Class E uses, such as to a mixed use for any purpose within Class E and as up to 2 flats, subject to prior approval (PD Class G), to a mixed use for any purpose within Class E and as up to 2 flats to a use for any purpose Class E (PD Class H) and/or to a state-funded school falling within Class F.1(a) (PD Class T) (and back to previous lawful use (PD Class U).

The purpose of the changes to these orders is to support the Government intention to enable flexibility of uses within the associated Class E uses.

Looking at this proposal in the round, officers consider that the loss of this floorspace in this location for a wider shopping offer would not adversely affect the vitality and viability of Spalding town centre and officers now consider that to defend such a reason for refusal given recent changes would not be sustainable.

The NPPF 2021 was published and came in to use in July 2021 and sets out the most up-to-date national planning policy guidance. The presumption in favour of development is still in place, as is the requirement for development proposals that accord with an up-to-date development plan to be approved without delay, and specifically (para 11d):

where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

Para 31 of the NPPF 2021 also makes clear that:

The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.

The sections of the NPPF 2021 dealing with Building a strong, competitive economy (Section 6) and Ensuring the vitality of town centres (Section 7) remain as per the previous iteration of the NPPF.

Design and visual impacts upon the Spalding Conservation Area

The external treatment of the ground floor of this building would have a visual impact on the character and appearance of this part of the conservation area. The detailing proposed would present a pleasant frontage, with the form of windows being in scale, form and keeping with the facade as whole.

It is noted that the Spalding & District Civic Society consider that the inclusion of a door at the centre of the eastern frontage would enhance the appearance of the building. Officers have considered this matter and conclude that although the formation of a door on the eastern elevation would provide a physical entrance and visual cue to the building, this would not retain the whole of the shop front; the door when read in isolation would not best serve the purpose of access to a residential unit, given the proximity of the highway.

It is considered that the proposals have a neutral impact on the character and appearance of this part of the Spalding Conservation Area.

Residential Amenity

No adjoining residents would be impacted by this development. There would be sufficient amenity to this dwelling and it is recognised that it is in a town centre location.

Flooding

The site is located within Flood Zone 3, and the detailed issues regarding flood impacts to this building were discussed by the previous application. H16-0368-18 was supported by a Flood Risk Assessment (16th April 2018), that set out, inter alia, that:

In any area at risk of flooding it is preferable that a proposed building should be of at least two storey construction with all bedrooms at first floor level. This will provide a refuge for residents if the building becomes flooded after a major breach, and ensure there is no danger to residents when they are asleep. However as the risk of any flooding occurring is so low that it could almost be discounted then accommodation with bedrooms on the ground floor is considered satisfactory.

The existing ground floor level of 5.45m OD is considered satisfactory for accommodation on the ground floor.

If any flooding did occur it would happen extremely slowly over many hours and occupants of the flats would have adequate time to prepare themselves for the event.

The owner of the building should advise all tenants that they should register with the Environment Agency's Floodline Warnings Direct Service.

It is considered that planning permission can be granted for this proposal, for the reasons above.

Parking

This is a town centre location and there would be no on-site parking for this unit or for the rest of the development of this building that has already been approved. It is not considered that planning permission could be withheld in this case.

Condition 7 of the previous consent on the site for the wider conversion works require cycle racks, and this is yet to be discharged.

Archaeology

The detailed archaeological consideration of this site was addressed via the wider permission referenced above. It is to be noted that the LCC Historic Environment Officer takes the view that no further archaeological input required.

Other matters

Regarding provision for Swifts, it is not considered that this ground floor conversion work would be conducive to the inclusion of swift boxes, due to the limited height of the works.

Planning Balance and Conclusion

On balance, and taking all the above matters into consideration, it is felt that the proposals are acceptable and that planning permission should be granted.

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.

This application was considered by the Chairman's Panel on 10 December 2021 and Members concluded that a delegated decision is an appropriate route.

RECOMMENDATION

That the application be approved under delegated powers.