DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1055-24**	**Applicant:**	**Dr I Razaq**
Proposal:	Details of windows, staircase & fencing (Conditions 3, 4 and 5 of H16-0238-23)		
Location:	15 High Street Spalding		
Terminal Date:	7th February 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
02	Development Management
03	Design of New Development
29	The Historic Environment

National Guidance

National Planning Policy Framework December 2024

Sections 12 and 16 of the National Planning Policy Framework (2024)

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This application is for the discharge of conditions 3, 4 and 5 of H16-0238-23

Condition 3 reads as follows:

"Details of the proposed staircase to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. Such details shall indicate, at a scale of not less than 1:10, the cross-sectional detailing, baluster and handrail detailing. The staircase shall be installed in accordance with the approved details and thereafter so maintained.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character of this listed building.
This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021."

Condition 4 reads as follows:

"Details of the window frames to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Such details shall indicate, at a scale of not less than 1:10, the longitudinal and cross-sectional detailing (including reveals), cill and lintol detailing, and means of opening. The window frames shall be installed in accordance with the approved details and thereafter so maintained.

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, and the character and visual amenity of this listed building and the 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 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021."

Condition 5 reads as follows:

"Details of the fencing to be utilised in the development hereby permitted shall be submitted and approved in writing by the Local Planning Authority prior to its installation. Prior to the first occupancy of the development, the fencing shall be installed in accordance with the approved details and thereafter so maintained.

Reason: In the interests of the architectural composition and appearance of the development and the character and visual amenity of this Listed Building and the 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 and national guidance contained in Section 16 of the National Planning Policy Framework, 2021."

Site Description

As in host application

History

As in host application

Consultation Responses

None sought

Planning Considerations

Condition 3

The applicant has sought to discharge this condition by simply stating that they do not intend to go through with the proposal to install a new staircase. It is not possible to discharge condition 3 by these means, as if the applicant does not wish to proceed with these aspects of the proposal, then they do not need to discharge these conditions - which are only applicable in instances where those aspects of the proposal are going ahead.

Discharging by stating that the applicant does not intend to complete the proposal would also cause issues relating to any future intention to carry out those aspects of the proposal.

The applicant is therefore advised to simply disregard condition 3 if they do not wish to proceed with the replacement staircase.

Condition 4

The applicant has sought to discharge this condition by simply stating that they do not intend to go through with the proposal to install new windows. It is not possible to discharge condition 3 by these means, as if the applicant does not wish to proceed with these aspects of the proposal, then they do not need to discharge these conditions - which are only applicable in instances where those aspects

of the proposal are going ahead.

Discharging by stating that the applicant does not intend to complete the proposal would also cause issues relating to any future intention to carry out those aspects of the proposal.

The applicant is therefore advised to simply disregard condition 4 if they do not wish to proceed with the replacement windows.

Note on conditions 3 and 4

The applicant was contacted and advised to withdraw these aspects from the condition discharge, so that condition 5 may be considered appropriately. However, no response was ever received.

Condition 5

The applicant has submitted details of the proposed rear boundary treatment, proposing a standard 1.8m close-boarded fence. Such a fence is typically not considered to be acceptable in the context of a listed building, appearing impermeable and thoroughly modern in appearance. To allow such a quality of fencing, which is out of keeping with the character of the listed property, and would appear to 'hem-in' the rear of the property from a relatively open rear, would therefore harm the historic environment in a fashion that is as yet unjustified. Thius condition therefore cannot be discharged using the submitted details.

Conclusion

For the reasons listed above, this application is deemed to be in contradiction of Policies 2, 3 and 29 of the South and East Lincolnshire Local Plan (2019) and Sections 12 and 16 of the NPPF (2024). Therefore, the recommendation is to refuse.

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.