DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1075-23**	**Applicant:**	**Newton Penstar Ltd**
Proposal:	Change of use of two-storey garage/annex to two studio flats - part retrospective (re-submission of H16-0748-23)		
Location:	Willow Villa 10 Green Lane Spalding		
Terminal Date:	30th January 2024		

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
21	Houses in Multiple Occupation and the Sub-Division of Dwellings
30	Pollution
36	Vehicle and Cycle Parking

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
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
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

Change of use of two-storey garage/annex to form two studio flats. Physical works include the creation of a ground floor walk-in bay window and a fenced amenity area to the rear.

Site Description

The application site fronts Knipe Avenue, close to the junction with Green Lane. The site is located within the settlement limits of Spalding as identified by the proposals map (insert 2). The application site is located within flood zone 2 in accordance with Environment Agency Mapping Systems.

The proposal which relates to an existing two storey outbuilding (ancillary to number 10 Green Lane, which is outlined in blue on the location plan) was approved to become a two-storey ancillary structure at appeal under planning application H16-0133-09.

The building is made up of a brown facing brick with up and over garage door at ground. The principal elevation has a circular opening. To the rear of the garage are stairs and to the fore two number parking spaces are provided and these are to be retained by number 10 Green Lane.

History

H16-0748-23 - Change of use of two-storey garage/annex to two studio flats - Part Retrospective. Refused 16.11.23
H16-0133-09 - Proposed first floor extension to garage. Appeal Allowed 22-04-09
H16-0682-09 - Proposed single-storey extension. Approved 30-10-09
H16-0751-07 - Erection of detached dwelling. REFUSAL 01-08-07
H16-1097-07 - Erection of detached dwelling (re-submission of H16/0751/07). Approved 17-10-07

Consultation Responses

Environmental Protection
No Comments

Highways & Suds
No objection: It is noted that the off-street car parking for residents of the two proposed studio flats, included on the previous Application, has been removed in this this revised Application. As commented in the highway authority response to the previous Application, given the close proximity of the Application Site to the centre of Spalding and the wide range of facilities, services, public transport options and employment opportunities therein, it would be possible to live in the proposed two flats, and go about daily life, without actually needing to have use of a private motor vehicle. In that respect, it is considered that a residential use of the subject building as proposed, would not inevitably have an unacceptable impact upon highway safety to the extent that Consent would have to be withheld on highway grounds. It is also noted that this revised Application includes space at the rear of the site for secure, covered space for residents to store cycles. In consideration of the above and having given 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 development would not be expected to have an unacceptable impact upon highway safety and therefore does not wish to object to this planning application.

Planning Considerations

The application is for the creation of two number residential planning units. The existing garage is located within the settlement boundary of Spalding. The following issues are considered relevant for assessment:

Principle of Development

Flood Risk and Drainage
Amenity
Highway Safety
Character and Appearance
Addressing the previous reasons for refusal

Principle of Development

Policy 1 sets out the overarching spatial strategy for the district. The application site is located within the sub-regional centre of Spalding, in these areas 'development will be permitted that supports their roles as Subregional Centres'. The proposal then to convert an existing outbuilding into residential accommodation is acceptable in planning principle terms. The proposal would accord with policy 1 of the South East Lincolnshire Local Plan 2019,

Flood Risk and Drainage

Policy 4 sets out the districts approach to flood risk. The proposal relates to a change of use of an existing building as such the relevant part of policy 4 states, "Change of use of existing buildings will be supported providing they do not pose an increase in risk to people. Change of use that would result in self-contained ground floor residential accommodation in areas of hazard rating 'danger for some', 'danger for most' and 'danger for all' will not be supported. In these areas unrestricted access to a habitable room above the flood level and an emergency evacuation plan will be required.

The application site is not shown on the Hazard Mapping to present a danger for some, most or all and is covered by white in the hazard mapping plan, being located in Spalding. The proposal to convert the two floors of the garage are therefore considered acceptable.

The applicant has provided a flood risk assessment, that deals with part b of the exceptions test. The sequential test is not applied given the proposal relates to a change of use and part a of the sequential test is not required given the proposal conformity with the overarching spatial strategy.

The LCC drainage team have been consulted and have not made comment. The outbuilding at present is considered ancillary to number 10 Green lane, therefore the proposal to create two residential planning units does not represent a change in the flood risk vulnerability classification table (as a residential use is already established). That said the proposal would include sleeping facilities at ground floor with no ability to move to upper floors in the case of a flood. The proposal site is acceptable to provide such accommodation given it is not considered a risk under the hazard maps. Therefore, it is likely that any permission will have an informative that an evacuation plan for future residents must be in place.

There is no increase in surface water created given that the proposal is for a conversion without extensions and therefore the attachment of a surface water drainage condition would be unreasonable in this instance. Given the proximity of the building to other dwellings there is likely to be a foul water network available and the applicant confirms within the application form that this will be directed into the mains sewer. Legislation and regimes external to planning exist to ensure that appropriate connections are made and therefore a condition is not considered necessary.
The proposal is therefore considered to align with policy 4 of the SELLP.

Amenity

Policy 2 of the SELLP is concerned with Development Management, Point 1 and 6 of the policy are especially pertinent, the state "Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:

1.size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses And
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
Policy 3 is concerned with the design of development. Point 11 relates to residential amenity and is considered relevant. Policy 21 relates to houses in multiple occupation and the sub-division of dwellings. The policy is relevant given that the garage is currently ancillary to number 10 Green Lane; the application is looking to sub-divide the garage from the property. Points 2, 7 and 8 are considered relevant. They state, "Proposals for the creation of large Houses in Multiple Occupation and the sub-division of dwellings will be permitted provided that, in each case:
it would not significantly harm the amenities of the occupiers of adjoining or neighbouring properties

by way of noise, overlooking, general disturbance or impact on visual amenity. And

an adequate standard of residential accommodation and residential amenity is provided for future occupiers; and
adequate provision is made for the communal gardens and amenity areas

Also of note is that the policy requires "the Nationally Described Space Standards (or any successor) will be applied to ensure that the occupiers have adequate floor space. The national space standards state that the minimum requirement for internal floor space is 37sqm (if a shower room is provided rather than a bathroom). Both flats measure just under 36sqm (34sqm for the main space and just under 2sqm for the shower room with toilet). As both flats fall below the required space standards point 'f' of the technical requirements is considered relevant, it states:
"any area with a headroom of less than 1.5m is not counted within the Gross Internal Area unless used solely for storage (if the area under the stairs is to be used for storage, assume a general floor area of 1m2 within the Gross Internal Area)".

The upper floor is located under the roof structure and partly above the eaves, however all of the floor space offers a greater head height than 1.5m and therefore can be counted towards the total floor space. The main room which is labelled up as 'lounge, kitchen, bed' along with the shower room would meet the requirements sets out under NDSS. The ground floor includes a walk in bay window and the overall space along with shower room would again meets the requirements set out under NDSS. Both rooms meets the 37sqm NDSS requirements.

Point 8 of policy 21 requires that 'adequate provision is made for the communal gardens and amenity areas' is provided. This is supported by policy 3 which requires 'residential amenity' to be considered in relation to the design of new development. The site plan shows that an external amenity area to the rear of the apartments is provided. This is a sufficient space to provide some amenity relief as well as bin and cycle storage. And likely to be proportionate to the internal space afford to single occupancy flats.

The proposal in relation to its impacts upon neighbouring properties is considered acceptable in terms of physical effects. The application proposes openings in appropriate locations that would not lead to an unacceptable level of overlooking. Furthermore, the built form is already in situ (with the exception of the bay) and therefore any impacts in relation to overshadowing and overbearing would not increase. In terms of the operational impacts (when the flats are habituated) there would be an increase in noise and disturbance however this is somewhat mitigated by projecting parking to the fore and the lack of openings on the northern elevation.

It is therefore considered that the proposed studio flats would provide an adequate level of amenity for future residents. Furthermore, external amenity area is provided for future residents. Conditions in relation to waste storage will be attached. The proposal is therefore considered to be in accordance with policies 21, 2 and 3 of the SELLP 2019.

Highway Safety

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 36 is 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)."

Appendix C sets out bespoke requirements in the following manner: Within the curtilage: · 2 spaces for dwellings with up to 3 bedrooms · 3 spaces for dwellings with 4 or more bedrooms A garage can count as one space if it is 2.6m x 5.6m internal width, with an additional 1m at the end to park cycles Where it can be justified by the character and location of the site the standards may be relaxed for one bedroom dwellings, including flats to one garage or parking space per unit and 1 additional space per 3 units for visitors.

The requirement for cycle parking which is also relevant states "1 space within each residential plot

or 1 space per unit within a flatted development, Where it can be justified by the character and location of the site the standards may be relaxed."

The applicant does not propose parking but has provided a transport statement. The statement argues that there is no requirement for parking provision for single person flats given the proximity of the application site to town centre services and amenities. The highway authority have been consulted and agree with the applicants position, in that the application site is located close to services and amenities all of which are highly accessible by foot. Furthermore the applicant has provided space for the storage of cycle, though no detail information on storage has been presented. This detail will be secured through planning condition prior to the first occupation of the apartments.

Character and Appearance

Policy 2 of the SELLP states 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. Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'. Policy 3 sets out the 'Design of new development' in part it states 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".

The proposal represents limited changes to the existing building to allow conversion to the flats. The garage is already in situ and has informed the street scene for a number of years. The applicant does propose a bay widow however, this has fenestration on the cheeks with a lean to roof and grey shiplap Upvc boarding on the face. Given that a garage door is already in situ this approach is considered acceptable and represents a mild betterment. The external materials are described within the application form and they will be conditioned to be built in accordance. It is therefore considered that the be acceptable in character terms.
The proposal is therefore considered to align with policies 2 and 3 of the SELLP in respect of character impact.

Addressing the previous reasons for refusal

A previous application on this site was refused for the following reasons:

1 It is considered that the proposed studio flats would not provide an adequate level of amenity for future residents. The flats fall below the 'Technical housing standards - nationally described space standard' (March, 2016), furthermore no external amenity area is provided for future residents. The proposal is therefore considered to be contrary to
Policies 21, 2 and 3 of the South East Lincolnshire Local Plan 2019.

2 The proposed development if approved would provide an insufficient level of overall off street parking provision. Furthermore the applicant has failed to provided any cycle parking provision or waste storage facilities for future residents This is unacceptable and contrary to Policies 2 and 36 of the South East Lincolnshire Local Plan 2019

This application addressed the amount of floor space provided for future residents. Both flats have now been demonstrated to meet with the 37sqm of internal floor space. The applicant has confirmed that the upper floor meets this by providing information that all of the floor space has a greater head height space than 1.5m (previously this was unknown), and therefore all of this space can be counted. The use of a shower room also reduces the requirement for a 1 persons apartment to 37sqm (the requirement is 39sqm if a bath is included). Furthermore at ground a walk in bay is included and this gives more space to future residents as well as a shower room.

This application also provides a succinct transport statement. The applicant has shown that these apartments are highly accessible on foot to local services and amenities. This is something that the Highway Authority concur with. The parking spaces are then retained for the nearby family dwelling. This approach is considered acceptable. To reinforce the sustainability the applicant has provided a space to the rear of the apartments where cycle storage can be provided for future residents.

This proposal has therefore overcome previous reasons for refusal and is now considered acceptable.

Conclusion

The proposal is considered to provide an acceptable level of amenity for 2x 1-bedroom apartments. Conditions that the parking is retained for number 10 Green Lane as well as details of refuse and cycle storage will be attached to the permission.

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.