

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-1097-24 **Applicant:** Mr N Revill

Proposal: Proposed replacement window and door to first floor rear elevation with similar upvc

Location: 12 Francis Street Spalding

Terminal Date: 28th February 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

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 is a Section 192 lawful use certificate application which seeks to determine whether planning permission is required for the replacement of window and first floor door rear elevation with similar upvc at 12 Francis Street, Spalding

Site Description

12 Francis Street is a Mid C20th mixed use structure with a commercial ground floor frontage, and forms an end of a terrace of 4 such identical properties.

The site is in a prominent portion of the conservation area. Francis Street, forms one of the primary pedestrian routes into the town centre, and so buildings situated along it have a strong influence upon the appreciation of the setting of the conservation area

To the rear, the drapers place car park is a large open space within which public views of the rears of the properties along Francis Street can be viewed.

History

None relevant

Consultation Responses

None sought

Planning Considerations

Evaluation

This application is a legal determination and planning policy is not relevant to the determination as to whether the proposed use would be lawful.

The key issue for decision is whether the proposed works are either (i) not development; or (ii) permitted development. The works are considered to be development, as defined by section 55 of the Town and Country Planning Act 1990, because they involve building operations that are either "structural alterations of or additions to buildings" or "other operations normally undertaken by a person carrying on business as a builder".

The planning history of the site was investigated. Permitted development rights had not been removed by any previous permissions.

The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended- Schedule 2 Part 1 Class A

Schedule 2 Part 1 Class A of the GPDO permits the 'enlargement, improvement or other alteration of a dwellinghouse'. Typically, the replacement of windows would be considered to be a form of alteration to a domestic property.

However, Article 2 (interpretation) of the order, states that "dwellinghouse", except in Part 3 of Schedule 2 to this Order (changes of use), does not include a building containing one or more flats, or a flat contained within such a building.

The host property is a flat. As such, the property is not afforded any permitted development rights to alteration under this part of the act.

The proposal to replace windows in a non-like-for-like fashion would therefore require planning permission to be sought.

Conclusion

The proposed alteration is not expressly permitted upon flat development, and is therefore not considered to be permitted development. It is therefore considered that the certificate of lawfulness should not be granted.

Recommendation

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

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.