DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H18-0240-25**	**Applicant:**	**API Ltd**
Proposal:	Change of use from hotel Class C1 to residential Class C3 including the creating of 15 residential units - Approved under H18-0463-24. Remove Condition 5 to allow basement level to be used as habitable accommodation		
Location:	Bridge Hotel 4 Bridge Road Sutton Bridge		
Terminal Date:	9th June 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
04	Approach to Flood Risk
National Guidance	
National Planning Policy Framework December 2024	
Section 14 - Meeting the challenge of climate change, flooding and coastal change	

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	1	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	0	0	0	3

CASE OFFICER ASSESSMENT

Proposal

This an application made under section 73 of the Town & Country Planning Act 1990 (as amended) for the removal of condition 5 attached to planning permission H18-0463-24.

Condition 5, states:
The basement level of the properties hereby approved shall be used as non-habitable accommodation, including the uses of garage, WC, utility and bath/shower room only and for no other habitable accommodation.

The applicant seeks the removal of this condition to allow for the basement level to be used as habitable accommodation.

Site Description

The application site relates to the Bridge Inn Hotel which is a vacant building last used in 2008. It has recently benefitting from planning permission for the change of use from hotel Class C1 to residential Class C3, including the creating of 15 residential units. This permission, following officer site visit, appears to have been begun and so is extant.

The application site is located within Flood Zone 3 in accordance with EA Mapping systems and shown on the 2115 hazard maps to be in an area with a danger for most.

The application site is within the town centre boundary for Sutton Bridge, as well as within the primary shopping area. The building is a large redbrick former hotel, with parking located to the rear. Whilst many of the openings are boarded up, it remains clear that they were sash openings with cill and lintel detailing. The building is built across 4 floors which includes the basement. The side of the property is along West Bank whilst the rear faces Wharf Street.

A Grade II listed building is located to the west.

History

H18-0463-24 - Change of use from hotel Class C1 to residential Class C3 including the creating of 15 residential units. Approved 28-01-25

H18-1234-16 - Redevelopment of site to provide 21 one-bed flats, parking and infrastructure. Non-determination 12-09-17

Consultation Responses

Parish Council

At a meeting on 25th March 2025 Sutton Bridge Parish Council considered the planning H18-0240-25 and resolved to object to the application. They commented that the development is very close to the river and a basement flat could be at risk of flooding. Other developments in that area had been required to be raised to mitigate the risk.

Anglian Water

We have reviewed the submitted documents with the variation of condition and there are no drainage related documents therefore we are unable to make comments on the above application.

South Holland IDB

Thank you for your consultation on planning application H18-0240-25. Having screened the application, whilst the site in question lies within the Internal Drainage District of the South Holland

Internal Drainage Board the proposed application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore the Board has no comments to make.

Environment Agency

Environment Agency position: In line with Policy 4 of the South East Lincolnshire Local Plan 2011-2036, we object to the proposed removal of Condition 5 to allow the basement level to be used as habitable accommodation.
The site has a future hazard classification of 'Danger to All' (includes the emergency services) and could experience flood depths of up to 1.6 metres arising from a breach in the defences during a flood that has a 0.1% chance of occurring in any one year up to 2115.

The Existing Plans drawing submitted as part of the original application (H18-0463-24), dated 26 April 2024, ref: '723-02', shows the existing use of the basement to include store, cellar, kitchen, and laundry uses. The proposed changes would allow residential accommodation to be provided on the basement level. We consider that this poses an unacceptable increase in risk to people in the event of a flood. The basement rooms could become fully inundated and would likely contain occupiers' worldly possessions. We acknowledge that the submitted Covering Letter, prepared by Clayton Architecture Limited states that the basement has previously been used for habitable uses; however, no evidence has been submitted to support this statement.

If you are minded to approve the application contrary to our objection, please contact us to explain why material considerations outweigh our objection. This will allow us to make further representations.

Highways & Suds Support

No objection The proposal is for minor amendments to Change of use from hotel Class C1 to residential Class C3 including the creating of 15 residential units - Approved under H18-0463-24. Remove Condition 5 to allow basement level to be used as habitable accommodation. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Crime Prevention Through Design Officer

Lincolnshire police do not have any objections to this application.

LCC Historic Places Team

Thank you for consulting us on this application. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request

Greg Watkinson

No objections

Environmental Protection

No comments regarding land contamination or environmental protection

Planning Considerations

This is a S73 application to remove condition 5 of planning permission H18-0463-24. The condition restricted the basement level to be used as non-habitable accommodation. The reason attached was r to protect the inhabitants of the property from the risk of flooding. The main issues and considerations in this case are (but are not limited to):

- Flood Risk Principle
- Planning Balance

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Evaluation - Section 73

The proposal relates to the variation of Condition 5 of H18-0463-24, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 5 removed, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

IIn the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to conditions which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Principle of Development and Sustainability

The principle of the development, in respect of a change of use of a hotel (Class C1) to residential (Class C3) including the creating of 15 residential units, has already been established by virtue of the previous approval (ref. H18-0463-24).

This application is to remove condition 5 of this previous approval, which relates to habitable accommodation within the basement level.

As outlined above, Condition 5, states:
The basement level of the properties hereby approved shall be used as non-habitable accommodation, including the uses of garage, WC, utility and bath/shower room only and for no other habitable accommodation.

Flood Risk Principle

Section 14 of the NPPF sets out the national policy basis for making assessments in relation to flood risk.
SELLP Policy 4 sets out South Hollands approach to Flood Risk the application site is located within Flood Zone 3 in accordance with EA flood maps for planning, located due east to the River Nene. The South East Lincolnshire SFRA shows the area to have a present day hazard rating of 'danger for some' and projected 2115 hazard rating of 'danger for all'.

The application site already benefits from planning permission for a C3 use, However, the use is conditional in that the basement level cannot be used for habitable accommodation. The applicant seeks the removal of this condition, so the basement level can be used.

The Environment Agency have been consulted and objected, stating that *The site has a future hazard classification of 'Danger to All' (includes the emergency services) and could experience flood depths of up to 1.6 metres arising from a breach in the defenses during a flood that has a 0.1% chance of occurring in any one year up to 2115.* AND

The proposed changes would allow residential accommodation to be provided on the basement level. We consider that this poses an unacceptable increase in risk to people in the event of a flood. The basement rooms could become fully inundated and would likely contain occupiers' worldly possessions.

The EA has made comment that they acknowledge the submitted Covering Letter, prepared by Clayton Architecture Limited, which states that the basement has previously been used for habitable uses; however, no evidence has been submitted to support this statement.

The applicant has submitted a covering letter (justification), as well as a response to the EA comments in support of the application. The covering letter puts forward justification that the basement had previously been used as a habitable space, that it benefits from natural light and ventilation, that it would comply with building regulations, that it would represent an efficient use of space and that there is a local president.

In their response to the EA objection, the applicant reiterates these points, referencing how they would meet with the exceptions test, as well as providing photographic evidence that the basement was used as habitable accommodation previously.

An important note to consider is that whilst these rooms had been used previously, they were used as part of a C1 Hotel use, and so not as a permanent residential planning unit. EA concerns inadvertently, cover this point by suggesting that occupants *worldly possessions* could be swept away in a flood event. Another key consideration is the modelling, as well as climate change allowances, the predict maps show that this area is considered a 'danger for most'.

These points were considered in the first application and resulted in the request to update floor plans to remove habitable accommodation from the basement, the applicant accepted this and changed the plans. Should those plans not have been changed then it would have resulted in a refusal.

NPPF Paragraph 178 is relevant, it states that:

The application of the exception test should be informed by a strategic or site- specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:

a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and

b) the development will be safe for its lifetime taking account of the vulnerability of its users, without

increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

It is considered that the flood risk, outweighs the wider sustainability benefits to the community (the buildings historical and communal values have been diluted already by the loss of the hotel use, the expansion of floor space for already approved residential units does not provide such sustainability benefits to the community). Moreover it is not considered that the development would be safe for its lifetime should the basement be used for habitable accommodation.

Therefore, on this basis, no new considerations have been brought forward and the risk from flooding far outweighs any associated sustainable community benefits. The proposal is considered contrary to Policy 4 of the South east Lincolnshire Local Plan (2019), as well as section 14 of the National Planning Policy Framework, especially paragraph 178.

Other Matters

Limited weight can be attributed in heritage terms, as regards the use of the basement, as the basement was previously used in conjunction with a hotel. The communal value of the broader use is therefore lost, through the subdivision of this building for separate residential planning units. There is no historical significance of using the basement for residential purposes.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal is contrary to the aims of Policy 4 of the South East Lincolnshire Local Plan (2019) and paragraph 178 of the National Planning Policy Framework (December 2024), in that the development would not be safe for its lifetime should the basements be used as habitable accommodation, and that the wider sustainability benefits to the community, do not outweigh the risk from flooding.

In this instance then, there are no material considerations that outweigh the flood risk associated with the proposal, as such the planning balance is not in support of the development

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

Taking into consideration these factors, the proposal is contrary to Policies 1 & 4 , of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024), especially paragraph 178.

On this basis, the proposal is recommended for refusal.