

Development Management Delegated Decision Report

B/21/0063



SUMMARY OF APPLICATION

Application Reference	B/21/0063		
Application Type	Full Planning Permission		
Proposal	Change of use from shop to takeaway (Sui Generis)		
Location	63, West Street, Boston, PE21 8QN		
Applicant	Mr A Latif		
Agent	G R Merchant Ltd		
Received Date:	12-Feb-2021	Consultation Expiry Date:	25-Mar-2021
Valid Date:	04-Mar-2021	Statutory Expiry Date:	29-Apr-2021
Date of Site Visit:	12-Mar-2021	Extension of Time Date:	---
Objections received?	No		
5 day notification record: Not applicable			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	GRANT Full Planning Permission		
Report by:	Grant Fixter		
Date:	20/04/2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site comprises of No.63 West Street which is within the Boston settlement boundary and town centre boundary and comprises a retail unit to the ground floor with flats to the above floors. The site is essentially surrounded by development, with a large number of frontage commercial units with varying uses along West Street.

DETAILS OF PROPOSAL:

This submission seeks full planning permission for the change of use of the ground floor shop to a takeaway. In September 2020, there were changes to the use class order, where a number of uses were revoked and essentially replaced with the new Class E or moved into the Sui Generis use class. The proposed takeaway use would have previously been class A5 but is now falls under Sui Generis.

Full details are shown on the following plans:

- 3746-20-01C - Location Plan, Existing and Proposed Floor Plans and Elevations;
- 3746-20 - Revised Extract System.



RELEVANT HISTORY:

There is no relevant planning history.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2011-2036)

The following policies contained within the South East Lincolnshire Local Plan (2011-2036) (i.e. SELLP) are relevant to this application:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development;
- Policy 4: Approach to Flood Risk;
- Policy 7: Improving South East Lincolnshire's Employment Land Portfolio;
- Policy 24: The Retail Hierarchy;
- Policy 25: Supporting the Vitality and Viability of Boston and Spalding Town Centres;
- Policy 30: Pollution.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2019)

At the heart of the 2019 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 4: Decision-making;
- Section 6: Building a strong, competitive economy;
- Section 7: Ensuring the vitality of town centres;
- Section 11: Making effective use of land;
- Section 14: Meeting the challenge of climate change, flooding and coastal change.

CONSULTATION RESPONSES:

Environmental Health

Does not object and made the following comments:

- Asked for confirmation that grease filtration, an electrostatic precipitator and activated carbon filtration are to be provided;
- If this is the case then low level extraction could be acceptable albeit high level extraction where better dispersion can occur is usually best;
- Any extraction system which incorporates multiple abatement odour abatement system is only as good as it is maintained;
- Assuming all the measures listed above are to be incorporated it essential this is conditioned appropriately along with a condition that the odour abatement plant should be cleaned and maintained in an operational condition at all times in line with manufacturer's recommendation;

- Flats above so need to be assured noise will not be an issue;
- Applicant indicates a maximum noise level externally of 35dB(A) and this should be conditioned;
- Hours also need confirming.

The above was sent onto the agent for them to provide a response and on 05/03/21, Environmental Health confirmed the response was acceptable subject to all the above conditions.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

The key considerations in regards to this application are:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on amenity;
- Impact on highway safety and parking;
- Flood risk.

Principle of development

Policy 1 of the SELLP sets out the settlement hierarchy, stating development will be permitted within the settlement boundaries of the respective settlements providing the proposal supports the designated role of the settlement in which it is to be executed.

Policy 24 of the SELLP states the town centre of Boston will be the locational focus for town centre uses and that planning permission will be granted for residential development, retail, food and drink outlets, financial and professional services, leisure and tourist-related uses.

Policy 25 of the SELLP indicates town centres will be the primary destinations for retail and other appropriate uses.

Boston is identified as a Sub Regional Centre in the SELLP, with Inset Map 1 – Boston showing the site to be within the settlement boundary. The SELLP indicates that Sub Regional Centres should be the main focus of appropriate development and growth. Policy 24 confirms the proposed retail and food uses are appropriate uses within the Town Centre.

The use classes outlined in the above policies were prior to the use class changes in September 2020 and is a material planning consideration. The proposal is for a takeaway which was previously a Class A5 use and is listed as appropriate within the policy. So whilst the changes in September now class the proposal as a Sui Generis use, essentially it still remains associated with general town centre activity and land uses.

The site is within the settlement boundary and town centre boundary of Boston, with the proposed uses being in accordance with those outlined in Policy 24 and 25. Subject to meeting other relevant policy considerations, the principle of development is acceptable.

Impact on the character and appearance of the area

Policy 2 of the SELLP states that proposals requiring planning permission will be permitted provided that sustainable development considerations are met. These include size, scale, layout, density and impact on the amenity, trees, character and appearance of the area as well as the quality of its design and orientation.

Policy 3 of the SELLP states all development must create a sense of place by respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area.

The proposal seeks change of use of the ground floor shop to a takeaway. It has already been established the proposed uses are in accordance with Policies 1, 24 and 25 of the SELLP, so the form of development is in keeping with the character of the area.

Turning to the appearance of the proposal, the site is not located within the Boston Conservation Area and there are no Listed Buildings that would be impacted by this proposal.

Notwithstanding the external changes in respect of the extraction equipment to facilitate the proposed use there are no external changes. No specific details of advertising have been submitted and therefore permission will be required through Advertisement Consent.

The proposal, therefore, complies with policies 2 and 3 of the SELLP in respect of the character of the area.

Impact on amenity

SELLP Policies 2, 3 and 30 seek to ensure that a new development does not significantly impact neighbouring land uses by reason of noise, odour, disturbance or visual intrusion.

The proposed uses of the site are in keeping with those along West Street and are, therefore, unlikely to impact neighbouring land uses.

Concerns were raised regarding the lack of information on hours of use. The agent confirmed the hours would be 12:00 noon to 12:00 midnight on Monday – Sunday. This is deemed acceptable and will be secured through a planning condition.

The submission indicates the proposal will create a maximum noise level externally of 35dB(A) and as requested by Environmental Health. This is deemed necessary to condition to ensure surrounding amenity is protected.

As requested by Environmental Health, the agent further expanded on the proposed extraction methods to be incorporated within the proposal and upon further expansion, these were deemed appropriate as they include both noise and odour management technology.

The proposal, therefore, complies with policies 2, 3 and 30 of the SELLP in respect of amenity.

Impact on highway safety and parking

The proposal is for uses which are seen along West Street and are commonly seen within the town centre boundary, with many having no parking provision. There will be no changes to access

and parking arrangements, so the proposal is unlikely to have an unacceptable impact on highway safety or parking grounds.

The proposal is, therefore, acceptable on highway safety and parking grounds.

Flood risk

Policy 4 of the SELLP states a proposed development within an area of flood risk (Flood Zones 2 and 3) will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding, that it is essential infrastructure in FZ3a & FZ3b, it is highly vulnerable development in FZ2 or is more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk. Where supported by a site specific flood specific risk assessment a criteria will need to be adhered to.

The application site is within Flood Zone 3 and a Flood Risk Assessment forms part of this submission. As per Table 2 of the PPG, the change of use would not lead to an increase in vulnerability.

On those grounds, it is considered the works would not increase the flood risk to future occupiers or the surrounding area.

CONCLUSION:

The proposal is for the change of use of the ground floor shop to a takeaway. The proposed uses are in accordance with those outlined appropriate for town centre locations and there will be no detriment to the character and amenity of the area.

The proposal, therefore, complies with both local and national policy. Accordingly, it is recommended to grant planning permission subject to conditions.

RECOMMENDATION:

GRANT Full Planning Permission subject to the following condition(s) and reason:-

CONDITIONS / REASONS	
Pre-commencement conditions?	Agreed with applicant/agent - Date:
1	<p>The development hereby permitted shall be begun before the expiration of four years from the date of this permission.</p> <p>Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.</p>
2	<p>The development hereby permitted shall be carried out in strict accordance with the application received on 04/03/2021 and in accordance with the associated plans referenced:</p> <ul style="list-style-type: none">▪ 3746-20-01C - Location Plan, Existing and Proposed Floor Plans and Elevations;▪ 3746-20 - Revised Extract System;

	<ul style="list-style-type: none"> Flood Risk Assessment (ECL0430/G R MERCHANT LTD, March 2021). <p>Reason: To ensure the development is undertaken in accordance with the approved details, in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2011-2036) and with the intentions of the National Planning Policy Framework (2019).</p>
3	<p>The premises shall not be open to the public except between the hours of 1200 Hours to 0000 Hours Monday to Sunday.</p> <p>Reason: In the interests of the amenity of the area in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (2011-2036).</p>
4	<p>The rating level of noise emitted from any fixed plant and equipment on site shall not exceed the existing background level by more than +35db (A) at any time. The noise levels shall be taken at the nearest noise sensitive premises. The measurements and assessments shall be made in accordance with BS4142:2014.</p> <p>Reason: To ensure that noise is kept to a minimum in the interests of residential amenity in accordance with Policies 3 and 30 of the South East Lincolnshire Local Plan 2011-2036.</p>
5	<p>The Extraction Ventilation System shall be installed in strict accordance with the details outlined in the approved document '3746-20 Revised Extract System'.</p> <p>Once installed, the system shall be cleaned and maintained in an operational condition at all times in accordance with the required measures outlined in the approved document '3746-20 Revised Extract System'.</p> <p>Reason: To ensure that odour is kept to a minimum in the interests of residential amenity in accordance with Policies 3 and 30 of the South East Lincolnshire Local Plan (2011-2036).</p>

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE

No specific details of the advertising to be placed on the elevations have been submitted and these will need permission through an Advertisement Consent, including any window vinyls.

STATEMENT OF PROACTIVE WORKING:

In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.