

Development Management Delegated Decision Report

B/21/0451



SUMMARY OF APPLICATION			
Application Reference	B/21/0451		
Application Type	Full Planning Permission		
Proposal	Provision of windows and a new building access		
Location	Former Scala Theatre, Pump Square, Boston, PE21 6EU		
Applicant	Mr R Yousiff		
Agent	Mr Iain Downer, Class Q Ltd		
Received Date:	12-Oct-2021	Consultation Expiry Date:	05-Jan-2022
Valid Date:	18-Nov-2021	Statutory Expiry Date:	13-Jan-2022
Date of Site Visit:	23-Nov-2021	Extension of Time Date:	21-Jan-2022
Objections received?	No		
5 day notification record:	Not required.		
Councillors notified	Date	Response received – date	Ok to continue
N/A	N/A	N/A	N/A
Recommendation	Approve		
Report by:	Chloe Allen		
Date:	11 th January 2022		



OFFICER REPORT

1.0 SITE AND SURROUNDINGS:

1.1 The application site lies with Boston Town Centre, within the Primary Shopping Area and partially within the Conservation Area. There are number of Listed Buildings in the surrounding area, including no. 36-38 Dolphin Lane and 15 Market Place, though none of these are seen within the same frame as the application building. To the south of the site are a number of commercial properties which front Dolphin Lane; east is a car park and access onto Mitre Lane/Silver Street, as well as a number of commercial premises; west is an amusement centre and the former Pound stretcher shop, which the application building is connected to. North is a car park, and the rear of Poundland and Pensioner House (a local community centre).

2.0 DETAILS OF PROPOSAL:

2.1 The application seeks planning permission for the provision of windows and a new building access.

3.0 RELEVANT HISTORY:

3.1 B/20/0388 - Outline application for the conversion of the existing commercial premises into 27 self-contained residential units including communal gardens – **APPLICATION RETURNED/NOT VALID**

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

4.1 South East Lincolnshire Local Plan (2011-2036) (SELLP)

The following policies are relevant to this application:

Policy 2: Development Management
Policy 3: Design of New Development
Policy 24: The Retail Hierarchy
Policy 29: The Historic Environment
Policy 30: Pollution
Policy 32: Community, health and Wellbeing

4.2 National Planning Policy Framework (NPPF)

At the heart of the National Planning Policy Framework (2021) is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

Chapter 1. Introduction
Chapter 2. Achieving sustainable development
Chapter 4. Decision-making
Chapter 7. Ensuring the vitality of town centres
Chapter 8. Promoting healthy and safe communities
Chapter 12. Achieving well-designed places
Chapter 16. Conserving and enhancing the historic environment

5.0 CONSULTATION RESPONSES:

- **Witham Fourth IDB** – No comments.
- **Planning Archaeologist, Heritage Lincolnshire** – No comments received
- **Historic Conservation Advisor, Heritage Lincolnshire** – No objections to windows, providing details are secured. Also recommended recording of interior of the building. The property is a non-designated heritage asset, forming part of the former Scala Theatre. Additional comments provided regarding heritage value of building.

6.0 THIRD PARTY REPRESENTATIONS RECEIVED:

None.

7.0 EVALUATION:

The issues to be considered with regard to this application are set out below.

- Principle of the development
- Effect on the character and appearance of the area and the historic environment
- Effect on amenity

7.1 Principle of the development

The site is within Boston Town Centre and the Primary Shopping Area, where Policy 24 of the Local Plan supports a variety of uses, including retail, food and drink outlets, financial and professional services, leisure and tourist-related uses and residential development.

Historically, the site was used as a theatre and following this was used as a furniture showroom and then as a supermarket. The periods of time for which each use occurred is unknown at this time, with the building have been empty for a number of years, and therefore it is unclear what the buildings lawful use is.

However, this application does not include a change of use of the building and is purely limited to external alterations, including the installation of windows and a new access. The proposed development would contribute towards the restoration of the building and will help to make it suitable for a variety of potential new uses which would likely enhance the vitality and viability of Boston Town Centre, in line with the aims of Policy 24.

7.2 Effect on character and appearance of area and the historic environment

Section 66 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local planning authority or the Secretary of State to have special regard to the desirability of preserving Listed Buildings, their setting, and any features of special architectural or historic interest which they possess, when determining a planning application. Section 72 of that same Act provides a similar duty for considering applications which affect the setting of a Conservation Area. Policy 29 of the Local Plan and Section 16 of the National Planning Policy Framework 2021 bring that duty into policy and support proposals where they preserve or enhance the significance of Listed

Buildings and non-designated heritage assets, and the character of the Conservation Area.

SELLP Policy 2 states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, including those relating to design. SELLP Policy 3 states that all development proposals will create a sense of place by; respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area. Paragraph 130 of the NPPF 2021 advocates that where a development is a poor design that fails to take the opportunities available to improve the character and quality of an area planning permission should be refused, supporting well-designed sustainable development.

The Heritage Statement submitted with the application describes the building as being part of the former Scala Theatre, built in 1851. The theatre opened on 17th March 1914 and had seating for 1100 in stalls and balcony levels. During World War II The Scale Cinema was closed, on 29th June 1940, and was requisitioned as a garrison cinema for troops only. After the war it remained unused for a few years until it was converted into a furniture showroom. In recent years it has been a Poundstretcher discount supermarket, which also used areas for storage. Much of the interior is still intact. Poundstretcher moved out in 2017. In addition to the application building there is an adjoining two storey section (not in use) with access onto Dolphin Lane. The part of the building is not included within this application, nor is the most eastern part of the original Scala Theatre which fronts Market Place. Given the period of time that the building has not been used as a cinema, and the period of dis-use/alternative uses, it is unclear what its current lawful use is, though it is likely to be either storage or retail. However, this application concerns solely the provision of new windows and doors, with no change of use being proposed.

The application building is currently redundant and is falling into a state of disrepair. As shown on the supporting plans, the building is not currently served by any windows except for 3 small openings on the northern elevation. Other than the access from Dolphin Lane, and since the building has been separated from Market Place, the only access is via a fire exist on its north-east corner. Whilst the application building cannot be seen from the wider conservation area, or within the view of any nearby Listed Buildings, due to its age and previous uses it is considered to be of historic and evidential value. The building forms part of the wider Scala Theatre building, which contributes significantly to the streetscape along Dolphin Lane and Market Place, contains original fabric internally, and is considered to be a non-designated heritage asset.

The supporting documents submitted with the application do not identify external features of the application building which are of significance, nor do they assess the impact of the proposed development on such significance in any detail. However, it is acknowledged that the elevations which are of high historic and aesthetic value are those which front Dolphin Lane and the Market Place, which have been excluded from this application. The section of the building which is subject of this application contains limited historic features and has very limited intervisibility with the wider Conservation Area and nearby Listed Buildings; although could still be considered to impact the setting of the Conservation Area. Few works are proposed to the east elevation which can be glimpsed from an access near Mitre Lane/Silver Lane, and the works are limited to the installation of windows on the north and south elevations, and the installation of a new access on the north elevation. The south elevation faces the rear of commercial properties on Dolphin Lane, which mostly consist of service/storage areas and the north elevation faces the car park and service yard for Poundland. The proposed windows, shown on the elevations drawing, have been designed to reflect the Victorian wooden windows which are common

in the vicinity of the building, being traditional wooden sliding sash windows (x3 types). No details of the proposed external doors, to the new access, have been provided.

Providing appropriate windows and doors are installed, which can be secured by condition, it is not considered that the proposed development will harm the significance of the former Scala Feature building, nor the character/setting of the Conservation Area or the setting of nearby Listed Buildings. It is also acknowledged that the application building likely contains significant historic interior which, although the building is not Listed, should be considered as part of any application to protect Boston's rich and unique history. As such, it is considered reasonable and necessary to impose a condition to secure a historic building recording prior to the windows and new access being installed. Heritage Lincolnshire were consulted and stated that the general approach to the windows appears to be reasonably considered, recommending that conditions are imposed for materials/final details and for archaeological recording of the interior of the building to be carried out.

Subject to conditions, it is considered that the development is in accordance with Policies 2, 3 and 29 of the Local Plan, and the relevant sections of the NPPF and the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990, as set out above.

7.3 Effect on amenity

SELLP Policy 2, 3 and 30 advocate that a proposed development should consider if there is an impact on the amenity of the site and neighbouring sites as well as the impact upon neighbouring land uses in terms of noise, odour, disturbance or visual intrusion.

Furthermore, Paragraph 130 of the NPPF 2021 seeks, amongst other things, to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposed development is limited to the installation of windows and a new access only, and does not include any change of use to the building. The building is likely to have a lawful commercial use, although what type of commercial use is not immediately clear from its planning history. The key consideration is the impact of the development on surrounding amenities. To the north of the application building is a car park and service yard for Poundstretcher, and the south elevation of the Poundstretcher building; which is in close proximity to the north elevation of the application building. The south elevation does not contain any windows, but does contain a number of extractor fans which could cause noise disturbance. However, this is not considered to be an issue at this time given the commercial use of the application building, and the impact of such would be considered during any future change of use application. The east elevation faces the entrance onto Mitre Lane/Silver Lane, with the Local Community Centre and other commercial premises (including 30-32 Dolphin Lane) in view. Again, given the commercial nature of surrounding properties and the lack of windows facing the application building, no issues are raised with the proposed works to this elevation. The south elevation faces the rear of a number of commercial properties which front Dolphin Lane, including:

Browns Cocktail Bar, 4 Dolphin Lane – Applications B/16/0086 and B/06/0835 confirm that this premises is a nightclub/lap dancing venue, with no windows serving a residential use facing the site. There is an open terrace at first floor, in close proximity to the south elevation of the application building. Given there is no change of use proposed to the

building, this is not considered to be an issue currently, but the presence of the terrace would need to be considered in any future proposals to change the use of the building.

Crumbs, 6-8 Dolphin Lane – B/19/0456 confirms that there is no residential use in the property, which is wholly used as a café; which was also noted during the planning officer's site visit. The window in the rear elevation which faces the south elevation of the application site, is a high level hall window.

Smart Move, 10 Dolphin Lane – B/11/0096 confirms that the whole property is in commercial use, which was also noted during the planning officer's site visit.

Scent, 12 Dolphin Lane – The whole premises is in use as a beauty salon, as seen during the planning officer's site visit. The sale details state that the property is arranged over three floors, with a sales area, office/store room and WC on the ground floor. The first and second floors contain a WC, kitchen and other rooms that could be used as office space, store rooms or consultation rooms: https://www.primelocation.com/to-rent/commercial/details/56812315/?search_identifier=8cd27dc862050b74df5a74bf1b86c484

14 Dolphin Lane – Currently empty, this is part of the former Scala Theatre, connecting to the application building. The auction details for the premises state that the ground floor is retail and the upper floor storage in connection with such: <https://www.auctionstates.co.uk/property/880-14-Dolphin-Lane-Boston-Lincolnshire-Pe21-6eu> .

Domuk Pizza, 16 Dolphin Lane – B/18/0463 confirms that the whole premises is used for commercial purposes as a hot food take away, which was also confirmed during the planning officer's site visit.

The Barber Shop, 18 Dolphin Lane – This premises is also wholly in commercial use as a barber shop, including ground and first floors, which was confirmed during the planning officer's site visit.

Fairweather Estate Agents, 20-22 Dolphin Lane – This premises is wholly in commercial use as an estate agents, which was confirmed during the planning officer's site visit. The occupants confirmed that the first floor is used for filing/cabinets, and second floor is storage.

Regency, 24 Dolphin Lane – This premises is wholly in commercial use as a laundrette's, which was confirmed during the planning officer's site visit and during a telephone call with the occupants of the premises.

During the site visit the planning officer visited the above premises', with the exception of no.14 which was empty, to confirm that any windows on the rear elevation are not to residential uses or main habitable rooms. Main windows to the premises' are on the south elevations, facing onto Dolphin Lane. Windows on the rear elevations were to halls, storage areas, kitchen units (commercial) etc. Given this, and after reviewing the premises' planning history and any details on previous sales, it is not considered that the proposed development will result in a detrimental impact to amenities of occupants of surrounding properties in accordance with the policies set out in the SELLP. The site is surrounded by commercial uses, where a close relationship between windows is not inappropriate. Additionally, no neighbour objection letters have been received.

The Local Planning Authority must deal with the application as proposed. However, there are concerns that a residential use of the building may be proposed in the future. If such is proposed, careful consideration of the relationship between the proposed windows and surrounding properties would be required, particularly to those along Dolphin Lane.

CONCLUSION:

It is considered the proposed development would therefore comply with the South East Lincolnshire Local Plan and NPPF 2021, and is recommended accordingly.

RECOMMENDATION:

Approve, subject to the following conditions and reasons:

CONDITIONS / REASONS	
Pre-commencement conditions?	No.3 Agreed with applicant/agent – Yes on 11.01.2022
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 not be carried out except in complete accordance with the following details shown on the submitted plans:</p> <ul style="list-style-type: none"> • Proposed Elevations, R-600 • Existing Plans, Elevations and Sections, R-301 • Site and Location Plan, 211013 <p>Reason: To ensure the development is undertaken in accordance with the approved details, in the interest of residential amenity and to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
3	<p>Prior to the commencement of the development hereby permitted, a scheme of historic building recording shall be submitted to and agreed in writing by the Local Planning Authority. The historic building recording shall be duly completed by a suitably qualified specialist and the results shall be submitted to and approved in writing by the Local Planning Authority prior to any works commencing on site.</p> <p>Reason: In the interests of the architectural and historic value of the site and the development. This condition is imposed in accordance with Policy 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036) and Paragraph 203 of the National Planning Policy Framework 2021.</p>
4	<p>Prior to installation on site, details of the design of all external doors to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority. The doors shall be installed in accordance with the approved details and thereafter maintained.</p>

	<p>Reason: In the interests of the architectural and historic integrity of the site and surrounding area. This condition is imposed in accordance with Policy 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036) and Paragraph 203 of the National Planning Policy Framework 2021.</p>
5	<p>Prior to installation on site, details of the window frames, including roof lights, to be utilised in the development hereby permitted, including samples if so required, shall be submitted to and approved in writing by the Local Planning Authority. Such details shall indicate, at a scale of not less than 1:20, the longitudinal and cross-sectional detailing, cill and lintol detailing, and means of opening. The window frames shall be installed in accordance with the approved details and thereafter maintained.</p> <p>Reason: In the interests of the architectural and historic integrity of the site and surrounding area. This condition is imposed in accordance with Policy 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036) and Paragraph 203 of the National Planning Policy Framework 2021.</p>
6	<p>Any new or replacement brickwork shall match as closely as possible to those of the existing building in terms of type of brick(s), mortar mix and method of bonding.</p> <p>Reason: In the interests of the architectural and historic integrity of the site and surrounding area. This condition is imposed in accordance with Policy 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036) and Paragraph 203 of the National Planning Policy Framework 2021.</p>

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE

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 2021 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.