

Development Management Delegated Decision Report

B/21/0506



SUMMARY OF APPLICATION

Application Reference				B/21/0506			
Application Type				Full Planning Permission			
Proposal				Change of use from ground floor retail space to storage space for Flat 4 including new access to the ground floor			
Location				Flat 4, 140 West Street, Boston, PE21 8RE			
Applicant				Mr. H. Peng, Best Food UK			
Agent				Steve Turner Design			
Received Date:		19-Nov-2021		Consultation Expiry Date:		15-Dec-2021	
Valid Date:		19-Nov-2021		Statutory Expiry Date:		14-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:				12 th January 2022			



OFFICER REPORT

1.0 SITE AND SURROUNDINGS:

- 1.1 The application site is located within Boston Town Centre, and is within the Danger for All Flood Hazard Zone, with depths of 1.6m+. To the north of the site is West Street and south is Trafalgar Place. Areas along West Street and Trafalgar Place are shown to be at risk of surface water flooding on the Environment Agency Surface Water Flood Risk Maps, but the site is wholly outside of these areas.
- 1.2 The site contains two flats and retail space, and has a close relationship to the premises to the west, which includes ground floor retail space and takeaway with flats above. Flat 4 (to which this application relates) is accessed by an external staircase, which also provides access to the surrounding flats. Beneath Flat 4 is retail space associated with the commercial unit which fronts West Street. To the rear of Flat 4 is a service area.

2.0 DETAILS OF PROPOSAL:

- 2.1 Change of use from ground floor retail space to storage space for Flat 4 including new access to the ground floor.

3.0 RELEVANT HISTORY:

- 3.1 B/02/0364 - Replacement ground floor windows
- 3.2 B/06/0059 - Proposed demolition of existing church/community centre and replacement with three shops and five flats
- 3.3 B/06/0505 - Change of use of existing church/community centre (class D1) and shop (class A1) to ground floor restaurant with takeaway (mixed A3/A5) with first floor managers flat, office and store
- 3.4 B/18/0110 - Change of use of first floor over restaurant to 3 no. residential apartments (Class C3)
- 3.5 B/18/0111 - Erection of storage building with first floor residential accommodation
- 3.6 B/18/0466 - Application under s73 for variation of condition 2 relating to planning application B/18/0111 to alter the internal layout of proposed flat and store
- 3.7 B/18/0465 - S73 for variation of condition 2 relating to planning application B/18/0110 to alter internal layout of proposed residential apartment
- 3.8 B/21/0069 - Change of use of ground floor from 1No retail unit, restaurant and takeaway to 3No retail units and 1No takeaway unit, including subdivision and alterations to shopfront

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 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
Policy 32: Community, health and Wellbeing
Policy 36: Vehicle and Cycle Parking

4.2 National Planning Policy Framework (NPPF)

At the heart of the National Planning Policy Framework (2019) 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 6. Building a strong, competitive economy
Chapter 7. Ensuring the vitality of town centres
Chapter 8. Promoting healthy and safe communities
Chapter 12. Achieving well-designed places
Chapter 11. Making effective use of land
Chapter 14. Meeting the challenge of climate change, flooding and coastal change

4.3 National Planning Practice Guidance (PPG)

5.0 CONSULTATION RESPONSES:

- **Black Sluice IDB** – No comments received.
- **Highways and SuDS Support** – No objections.
- **Environmental Health** – No objections.
- **Housing Strategy** – No comments received.
- **Housing Standards Officer** – Advice provided in respect of housing standards and general fire safety, as below:

Unless already in place at 'D6', this is required to be a fire rated door as it is within a risk room that leads out onto common parts. In addition, an inter-linked smoke detection system throughout the communal area is a minimum requirement with an interlinked heat detector to the kitchen and smoke detector in the flat unless an AFD panel system is already in place. Adequate 60 minute separation is required between commercial and residential premises and this appears most appropriate where the communal parts of the first floor flat sit above commercial areas – this is also variant on the type of commercial

activity below where cooking and higher risk appliances must be assessed on a risk assessment basis.

The Housing Act 2004, the Housing Health and Safety Rating System (HHSRS), and Lincolnshire Fire and Rescue's guidance/legislation will require the above measures to be incorporated.

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 building and area
- Effect on amenity
- Access, parking and highway safety
- Flood risk and drainage

7.1 Principle of the development

B/18/0111 granted planning permission for the erected of the building to which this application relates. The description of development on the decision notice is 'Erection of storage building with first floor residential accommodation' and there are no conditions requiring the ground floor storage area to be used for the commercial premises to the north. As such, at the time the original planning permission was granted it could be argued that the ground floor 'storage' area could lawfully be used in connection with either the flat above or the commercial use. Subsequently, planning permission has been granted for the ground floor of the application building to be used for retail purposes (B/21/0069).

If B/21/0069 has been implemented, this means that the proposed development will result in the loss of 34.1sqm of retail floor space; resulting in the retail unit then being 43.9sqm in floor space. Whilst Policies 24 and 25 of the Local Plan seek to encourage retail use within Boston Town Centre, there is no specific policy relating to the loss of retail use within such, except for premises' which are within the Primary Shopping Area, which the application site is not. Overall, the loss of 34.1sqm of retail space is not considered to be likely to harm the vitality or viability of Boston Town Centre, particularly as the frontage of the premises will be retained for retail purposes, which has a positive contribution to the character of West Street.

7.2 Effect on the character and appearance of the building and area

SELLP Policy 2 and 3, and Paragraph 130 of the NPPF, seek to support well-designed sustainable development.

There are no changes to the external appearance of the building, except for the installation of double doors on the ground floor rear elevation, which has already been completed. This is not considered to materially affect the external appearance of the building or harm the character of the surrounding area, being in accordance with Policy 2 and 3 of the Local Plan, and Paragraph 130 of the NPPF.

7.3 Effect on amenity

SELLP Policy 2 and 3, and Paragraph 130 of the NPPF, seek to ensure that developments provide a high standard of amenity for existing and future occupants.

The proposed development will improve the residential amenity of occupants of the first floor flat by providing additional space and also being likely to result in reduced noise/disturbance due to the removal of the commercial space below the flat. The proposed development is also unlikely to harm surrounding residential amenities, given the scale and nature of the use in accordance with Policy 2 and 3 of the Local Plan and the NPPF.

7.4 Access, parking and highway safety

SELLP Policy 2 states that developments will be permitted providing that sustainable development considerations are met relating to access and vehicle generation levels.

SELLP Policy 3 states that developments will be permitted where the provision of facilities for the storage of refuse/recycling bins, storage and/or parking of bicycles and layout of car parking is secured. Additionally, Policy 24 of the Local Plan requires new development within the Sub-Regional Centres to achieve an acceptable level of amenity, including provision of refuse and recycling facilities, and an acceptable level of highway access, parking and servicing.

Parking and the provision of waste storage areas was considered during previous applications, including B/18/0111, B/18/0466, and B/21/0069. No parking space has ever been specifically allocated to occupants of Flat 4 or the commercial units. However, site is within Boston Town Centre, where a number of areas are available for parking and where key services and facilities are accessible by a number of sustainable transport methods, including walking, cycling and public transport. Likewise, customers to the commercial units are likely to travel by such methods. A Parking & Access Statement was provided with B/21/0069 which highlighted the sites sustainable location, the availability of parking in close proximity to the site, and the existence of sufficient space to the rear of the site for single goods/transit vans to make deliveries. Additionally, LCC Highways were consulted on the proposal and raised no objections.

The waste storage areas shown on the approved plans of previous permissions are unaffected and will remain available for the flat and the commercial units. The key change which results from the proposed development is the lack of direct access from the commercial unit to the north, to the rear storage area. Originally the ground floor was connected to the commercial space, with a rear access door, but this will be removed as a

result of the change of use to ancillary domestic storage in connection with Flat 4. However, access can be gained easily by walking less than 100m along the footway adjacent West Street, the A52 and Trafalgar Place, and the retail unit is likely to generate only a small amount of waste, given its small size, being 43.9sqm. The proposal is therefore in accordance with Policies 2, 3 and 24 of the Local Plan.

7.5 Flood risk and drainage

As the proposed development is for change of use, it is not necessary for it to be demonstrated that the sequential and exceptions tests have been passed. However, as the site is within Flood Zone 2/3 and the Danger for All Flood Hazard Zone (predicted flood depths of 1.6m+), a site-specific Flood Risk Assessment is required to demonstrate that the development will be safe for its lifetime and will not increase flood risk elsewhere, as required by SELLP Policy 4 and Paragraph 166 of the NPPF.

The submitted Flood Risk Assessment is not particularly robust, acknowledging that the site is within Flood Zone 3 but going on to state that ‘due to the specific locations ‘Low to Very Low’ risk classifications it is advised that the client/landlord and tenants adopt the general guidance of the Environment Agency...’. The low/very low risk relates to surface water flood risk only and not tidal flood risk. However, as the proposal seeks to change the use of the ground floor from storage associated with the commercial unit to storage associated with Flat 4, it is not considered that this represents an increase in ‘risk to life’, particularly as the habitable accommodation associated with Flat 4 is wholly at first floor level. It is considered necessary to impose a condition to ensure that the ground floor is used for storage only and is not used for habitable accommodation by occupants of Flat 4. The proposal therefore accords with Policy 4 of the Local Plan and the NPPF.

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?	N Agreed with applicant/agent – N/A
1	The development hereby permitted shall be begun before the expiration of four years from the date of this permission. Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.
2	The development hereby permitted shall not be carried out except in complete accordance with the following details shown on the submitted plans:

	<ul style="list-style-type: none"> • Block Plan – Received 19th November 2021 • Site Location Plan – Received 19th November 2021 • Proposed Ground Floor Plans - 0217-31 • Survey – Existing Ground Floor Plans Including Rear Elevation & Photo - 0217-30 <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, 3, 4, 24 and 25 of the South East Lincolnshire Local Plan (2011-2036).</p>
3	<p>The ground floor area shown in yellow on drawing '0217-31 Proposed Ground Floor Plans' shall be used for storage purposes only.</p> <p>Reason: To prevent the increased risk of flooding in accordance with Policies 2 and 4 of the South East Lincolnshire Local Plan (2011-2036).</p>

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE	
<u>STATEMENT OF PROACTIVE WORKING:</u>	
<p>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.</p>	
1	The applicant's attention is drawing to the comments from the Housing Standards Officer, dated 23 rd December 2021 and 31 st December 2021.