

# Development Management Delegated Decision Report

B/22/0030



SUMMARY OF APPLICATION			
<b>Application Reference</b>	B/22/0030		
<b>Application Type</b>	Full Planning Permission		
<b>Proposal</b>	Proposed change of use from mixed use hair and beauty salon to hot food takeaway (Class Sui Generis) including internal alterations		
<b>Location</b>	Royal Sports and Fashion, 27, High Street, Boston PE21 8SH		
<b>Applicant</b>	Mr Mehmet Bahadir		
<b>Agent</b>	Mr Adrian Fox, AF Architecture		
<b>Received Date:</b>	02-Feb-2022	<b>Consultation Expiry Date:</b>	28-Feb-2022
<b>Valid Date:</b>	04-Feb-2022	<b>Statutory Expiry Date:</b>	01-Apr-2022
<b>Date of Site Visit:</b>	12-May-2022	<b>Extension of Time Date:</b>	20-May-2022
<b>Objections received?</b>	None		
5 day notification record: Not applicable			
	<b>Councillors notified</b>	<b>Date</b>	<b>Response received – date</b>
<b>Recommendation</b>	GRANT Planning Permission		
<b>Report by:</b>	Simon Eldred		
<b>Date:</b>	16-May-2022		

## OFFICER REPORT

### SITE AND SURROUNDINGS:

27 High Street, Boston is located at the corner of West Street and High Street, within the town's commercial core. Its ground-floor is in use as a hair and beauty salon, and its upper floors appear to be in residential use. To the west it adjoins a barber's premises, and to the north The Stanley Hotel. Premises on the opposite side of West Street are in use as a restaurant, and those on the opposite side of High Street are in use as a hairdressers, a restaurant, and a hot food takeaway.

The building:

- is Grade II listed;
- is located within the Boston Conservation Area;



- forms part of the setting to a number of Grade II listed buildings, including 16a, 18 and 20 High Street, 21 High Street, 23 and 25 High Street, 26, 28 and 30 High Street, and 32 High Street; and
- forms part of the setting to a non-designated heritage asset, 29 and 31 High Street.

### **DETAILS OF PROPOSAL:**

Full planning permission is sought for the change of use of the building's ground-floor from a hair and beauty salon to a hot food takeaway, including the installation of a new ventilation flue adjacent to the building's western elevation, which will terminate at ridge level.

### **RELEVANT HISTORY:**

- B/14/0335 and B/14/0336 – Listed Building Consent and Full Planning permission were granted on 24<sup>th</sup> and 14<sup>th</sup> November 2014 for the separation of the flat from the shop, the installation of an external stairway, 2 new external doors, and blocking up 2 windows.
- B/16/0034 and B/16/0035 – Listed Building Consent and Full Planning Permission were granted on 31<sup>st</sup> March 2016 for change of use from hairdresser to mixed use hair and beauty, external decoration, and the erection of 3 internal stud walls.
- B/17/0338 – Full planning permission was granted for the change of use of the upper floor from residential to a short-term Bed and Breakfast.

### **RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:**

The **South East Lincolnshire Local Plan 2011-2036** shows the application site as being within Boston's Settlement Boundary, the Town Centre Boundary and the Conservation Area. A Cycle Route is shown passing to its east. The policies of relevance to this proposal are:

- Policy 2 – Development Management;
- Policy 3 – Design of New Development;
- Policy 4 – Approach to Flood Risk;
- Policy 24 – The Retail Hierarchy;
- Policy 29 – The Historic Environment;
- Policy 30 – Pollution; and
- Policy 36 – Vehicle and Cycle Parking.

### **OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:**

**The Planning (Listed Buildings and Conservation Areas) Act 1990**

**National Planning Policy Framework (2021)**

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

- Section 7 – Ensuring the vitality of town centres;

- Section 9 – Promoting sustainable transport;
- Section 12 – Achieving well-designed places;
- Section 14 – Meeting the challenge of climate change, flooding and coastal change; and
- Section 16 – Conserving and enhancing the historic environment.

### **CONSULTATION RESPONSES:**

The Environment Agency indicates that it has no comments.

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) identifies that *“the site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport and there is sufficient parking facilities located within reasonable distance for visitors to the premises, therefore parking is not essential for this proposal.”* Consequently, they conclude that the proposed development is acceptable, and indicate that they have no objections.

Boston Borough Council’s Environmental Health department initially objected on the basis that the proposed change of use has the potential to have adverse impacts upon residential neighbours via the creation of odour and noise. Following:

- amendments to the scheme involving new ducting and a flue discharging at roof level; and
- a Noise Assessment which demonstrates that the building’s structure is such that noise from the proposed use is extremely unlikely to be an issue to the occupiers of the first floor-flat

they conclude that they no longer have concerns.

Heritage Lincolnshire identifies that the building is located within the Boston Conservation Area, and forms part of the setting to: nearby listed buildings; and a non-designated heritage asset. It goes on to indicate that *“as and when the building changes use, a separate consent will be required for the works to external facades to assess the impact this will have upon the Conservation Area. Ahead of this, the applicant/agent should take note of the Boston Shop Front Guide ...”*.

### **THIRD PARTY REPRESENTATIONS RECEIVED:**

No third party representations have been received.

### **EVALUATION:**

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. Potential impacts upon the special interest of the listed 27 High Street are considered in listed building consent application B/22/0031. Therefore, the key considerations in regard to this application are:

- Principle of Development;

- Impacts upon the Character of the Area and Heritage Assets;
- Impacts upon Neighbouring Land Users;
- Parking; and
- Flood risk.

## **Principle of Development**

The site is within the development boundary for Boston and comprises the change of use of an existing retail building into a hot food takeaway with alterations. Policy 1 of the South East Lincolnshire Local Plan (2011-2036) accepts such developments in principle, subject to the site specific impacts discussed below. Furthermore, Policy 24 of the Local Plan identifies that Boston Town Centre will be the locational focus for the development of town centre uses, where planning permission will be granted for food and drink outlets. It is considered that the proposal accords with these requirements of Policy 24.

## **Impacts upon the Character of the Area and Heritage assets**

Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area.

The proposed change of use will involve only one minor alteration to the Listed Building's external appearance (the installation of a new ventilation flue adjacent to the building's western elevation). The building itself has a commercial character, and the part of the town centre where it is located is a local focus for commercial activity and the 'night-time economy'. In this context, it is not considered that the proposed change of use will have any significant harmful impact upon the area's character or appearance.

It is considered that a number of heritage assets are potentially affected:

- Firstly, 27 High Street is a Listed Building and located within the Boston Conservation Area;
- Secondly, it forms part of the setting to a number of Grade II listed buildings, including 16a, 18 and 20 High Street, 21 High Street, 23 and 25 High Street, 26, 28 and 30 High Street, and 32 High Street; and
- Lastly, it forms part of the setting to a non-designated heritage asset, 29 and 31 High Street.

Externally, the proposed works involve the installation of a new ventilation flue adjacent to the building's western elevation. The proposed flue will be visible from West Street, and, as such, it is considered that it will have an impact on the character and appearance of the Conservation Area, and the settings of the nearby listed buildings and non-designated heritage asset.

However, views of the building's western elevation are largely obscured by a parapet wall and this (together with the fact that the elevation already accommodates a rainwater downpipe) means that impacts of the proposed works are not considered likely to lead to 'substantial' harm. Rather, it is considered that impacts will be 'less than substantial' (in the terminology used in the NPPF). Indeed, bearing in mind the above factors, it is considered that the impacts would be at the lower end of the spectrum of 'less than substantial harm'. In such circumstances, the provisions of the NPPF indicate that the

*“harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.”*

The installation of the ventilation flue is required to ensure that the proposed change of use will not have adverse impacts (in terms of odour) upon residential uses on the building's upper floors (see the next section of this report), i.e. it will enable the building's on-going viable use. It is considered that securing a viable use for the building will provide public benefit that will be sufficient to outweigh the very minor harm to the character and appearance of the Listed Building, Conservation Area, and the settings of the nearby listed buildings and non-designated heritage asset that will be caused by this element of the proposals. The proposal therefore accords with policies 2, 3 and 29 of the South East Lincolnshire Local Plan (2011-2036).

### **Impacts upon neighbouring land users**

Policies 2, 3 and 30 of the Local Plan require neighbours' amenity to be protected. The application form identifies that the proposed hot food takeaway is intended to open between the hours of 10.00 and 12.00 midnight on Sundays to Fridays and bank holidays, and between 10.00 and 03.30 on Saturdays.

It is considered that the proposed change of use could generate noise and odours which might impact negatively on neighbours' amenity, and Boston Borough Council's Environmental Health department initially objected on this basis. However, following:

- amendments to the scheme, involving new ducting and a flue discharging at roof level; and
- a Noise Assessment which demonstrates that the building's structure is such that noise from the proposed use is extremely unlikely to be an issue to the occupiers of the first floor-flat

• they conclude that they no longer have concerns.

The Environmental Health Officer acknowledges that the application site is located within an active 'night-time economy' area, and raises no concerns about the proposed opening hours. Nonetheless, it is considered that a condition will be required to ensure that the takeaway's operation will adhere to the proposed opening hours.

Subject to the above condition, it is considered that the proposed change of use will not have unacceptable impacts upon neighbours' amenity, and that the proposals therefore meet these requirements of Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (2011-2036).

### **Parking**

Policy 36 and Appendix 6 of the Local Plan require all developments to provide appropriate vehicle and cycle parking, but do not set out specific standards for fast food takeaways.

The proposals include no provision for vehicle parking. On-street parking is not permitted on High Street, but there are significant nearby opportunities for: on-street parking on

West Street; and off-street parking at the West End Cinema and Doughty Quay public car parks.

The Highway Authority has commented that *“the site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport and there is sufficient parking facilities located within reasonable distance for visitors to the premises, therefore parking is not essential for this proposal.”*

Given the above factors, it is considered that the proposal's lack of provision for vehicle parking is not a cause for concern.

### **Flood risk**

Policy 4 of the Local Plan seeks to ensure that new development is not unnecessarily exposed to flood risk, and does not increase flood risk elsewhere. In particular, the Policy indicates that the *“change of use of existing buildings will be supported providing they do not pose an increase in risk to people”* and the Flood risk and coastal change section of the NPPG indicates that *“a change of use may involve an increase in flood risk if the vulnerability classification of the development is changed.”*

The application is accompanied by a Flood Risk Assessment which identifies potential sources of flooding and the severity of flood risks and indicates that:

- the proposed change of use involves no change to finished floor levels;
- the proposed change of use will not increase flood risk elsewhere.

Given that the proposed change of use is from one 'less vulnerable' use to another (as defined in 'Table 2: Flood risk vulnerability classification' as set out in the NPPG), it is considered that the proposal meets these requirements of Policy 4.

### **CONCLUSION:**

The above assessment identifies that (subject to conditions) the proposal complies with Local Plan policies in relation to neighbours' amenity, parking provision, flood risk, and impacts upon the character and appearance of the area. Although it identifies that very minor harm will be caused to the character and appearance of the Listed Building, Conservation Area and the settings of the nearby listed buildings and a non-designated heritage asset, it concludes that securing a viable use for a Listed Building will provide public benefit that will be sufficient to outweigh this harm.

In overall terms, it is considered that the proposed change of use accords with the Local Plan, and that it is therefore appropriate to grant full planning permission.

### **RECOMMENDATION:**

GRANT Planning Permission subject to the following conditions and reasons:-

CONDITIONS / REASONS			
Pre-commencement		Agreed with	

conditions?		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><b>Reason:</b> 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 02-Feb-2022 and in accordance with the associated plans referenced:</p> <ul style="list-style-type: none"> <li>• Drawing No: 22/207/Ex-01 revision A (Existing Plans and Proposed Floor Plan Layout); and</li> <li>• Drawing No: 22/207/Ex-02 (Existing and Proposed Elevations/Sections).</li> </ul> <p><b>Reason:</b> To ensure that 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, 29, 30 and 36 of the South East Lincolnshire Local Plan (2011-2036).</p>		
3	<p>The premises shall not be open to the public outside the hours of 10.00 to 12.00 midnight on Sundays to Fridays and bank holidays, and 10.00 to 03.30 on Saturdays, and no deliveries or dispatches from the premises shall take place outside the aforementioned hours.</p> <p><b>Reason:</b> In the interests of the regulating noise and disturbance, to protect amenity of the area in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (2011-2036).</p>		

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE	
<p><b>STATEMENT OF PROACTIVE WORKING:</b></p> <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>	
<p>The applicant's attention is drawn to the comments from Heritage Lincolnshire regarding the Boston Shop Front Guide. Please go to <a href="https://www.mybostonuk.com/planning-application-search/">https://www.mybostonuk.com/planning-application-search/</a> to view the comment.</p>	