

Development Management Delegated Decision Report

B/23/0368



SUMMARY OF APPLICATION			
Application Reference	B/23/0368		
Application Type	Full Planning Permission		
Proposal	Change of use from existing barn/store into licenced trading space including new windows, doors, new bound gravel surfacing to beer garden, new picket fence and erection of a new entrance porch		
Location	The Black Bull, 23 London Road, Kirton, Boston, PE20 1JE		
Applicant	Mr Sonny Mann, Stonegate Group		
Agent	Mr Phil Doughty, Concept IDL Ltd		
Received Date:	30-Oct-2023	Consultation / Publicity Expiry Date:	08-Jan-2024
Valid Date:	05-Dec-2023	Statutory Expiry Date:	30-Jan-2024
Date of Site Visit:	19-Feb-2024	Extension of Time Date:	01-Mar-2024
Objections received?	None		
5 day notification record: Not applicable			
	Councillors notified	Date	Response received – date
Recommendation	Approve with Conditions		
Report by:	Simon Eldred		
Date:	26 th February 2024		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located on the north-western side of London Road, and contains a two and single-storey public house building, a car park, and a grass-surfaced area. It is located towards the edge of Kirton's commercial core and has:

- a beauty salon and dwellings to its south-west and west;
- a disused former restaurant to its north;
- dwellings to its east and south; and
- offices to its north-east.



The site is located within the Kirton Conservation Area, and forms part of the setting to a number of listed buildings, including:

- Church of St Peter and St Paul (grade I);
- churchyard cross (grade II);
- gravestone (grade II);
- churchyard wall and mounting steps (grade II);
- 30 London Road (grade II); and
- The Old Kings Head (grade II).

DETAILS OF PROPOSAL:

Full planning permission is sought for:

- the erection of a single-storey, flat-roofed entrance porch on the public house's south-western elevation;
- the erection of a 1.1m-high painted timber picket fence within the site; and
- the change of use of existing, attached stores to become an extension to the existing lounge/bar area (including the installation of new ground-floor windows and door in the stores' south-western elevation).

Full details of the proposals are set out in:

- Drg. no. 3167-14 Rev. A - Location Plan;
- Drg. no. 3167-16 Rev. A – Proposed Block Plan;
- Drg. no. 3167-11 Rev. A – Proposed Ground Floor Layout;
- Drg. no. 3167-13 Rev. B – Proposed External Elevations;
- Drg. no. 3167-17 – Door and Window Details; and
- e-mail sent at 14:24 on 3rd January 2024 indicating that the porch will be finished in exposed brick.

The application is also accompanied by:

- Drg. no. 3167-15 Rev A – Existing Block Plan;
- Drg. no. 3167-10 – Existing Ground Floor Layout;
- Drg. no. 3167-12 – Existing External Elevations;
- Design and Access Statement (25th October 2023);
- Heritage Statement (4th December 2023); and
- Flood Risk Assessment.

RELEVANT HISTORY:

- B/02/0465 – Advertisement consent was granted on 24th October 2002 for 1 externally-illuminated projecting sign, 1 externally-illuminated wall-mounted sign, 7 non-illuminated wall-mounted signs, and 1 non-illuminated entrance sign.
- B/23/0306 – Advertisement consent was granted on 16th October 2023 for 1 pictorial to existing gibbet with new linolites to externally illuminate, 1 single-sided pictorial, 1 amenity board to window recess, 1 amenity board, 1 chalkboard, and 7 LED floodlights.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The **South East Lincolnshire Local Plan 2019** shows the application site as being: within Kirton's Settlement Boundary; and partially within the Kirton Conservation Area, Kirton's Town Centre and Kirton's Primary Shopping Area. 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 24 – The Retail Hierarchy;
- Policy 29 – The Historic Environment; and
- Policy 30 – Pollution.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

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

At the heart of the **National Planning Policy Framework 2023** is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 2 – Achieving sustainable development;
- 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 12 - Achieving well-designed and beautiful places;
- Section 14 – Meeting the challenge of climate change, flooding and coastal change; and
- Section 16 – Conserving and enhancing the historic environment.

CONSULTATION RESPONSES:

Boston Borough Council's **Environmental Health** department indicates that it has no objections.

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) concludes that *"the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application."*

Heritage Lincolnshire identifies that the property is located within the Kirton Conservation Area, and that special attention must be given to the desirability of preserving or enhancing the appearance and character of the Conservation Area under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. It initially indicated *"the proposal is supported in principle as it is bringing a currently vacant and tired part of the building into use. This is deemed to be highly positive and an enhancement of the Conservation Area. Notwithstanding this, please see below comments to be considered:*

- *Window and door details should be secured via condition. The windows should be flush units and should not have visible trickle vents. It is agreeable that timber has been proposed.*

- *A sample/the specification of the timber panelling should also be secured via condition.*
- *Is the new porch going to be painted to match the two buildings it abuts or left as exposed brick?*
- *A sample brick panel should be secured via condition to avoid a stretcher bond.*
- *The soldier course lintel for the door within the porch is not considered to be in-keeping with the rest of the building, could this be changed to a segmental arch? Or a hidden lintel?*
- *The new door opening is acceptable.*
- *No objections to the proposed fencing.”*

Following the receipt of new drawings/information showing the door in the new porch with a segmental arch and indicating that the porch will be in exposed brickwork (to match that at the rear), Heritage Lincolnshire indicated that they were happy with these details. Following the receipt of window and door details, Heritage Lincolnshire indicated *“I’m happy with the proposed windows and doors. The slimline double glazing is agreeable and there are no trickle vents which is also good.”* Following the supply of brick sample panels, Heritage Lincolnshire indicated that they were happy with the darker of the samples and with the use of English garden bond.

The **Planning Archaeologist** indicates that they *“have no archaeological comment to make”*.

THIRD PARTY REPRESENTATIONS RECEIVED:

The **occupant of a neighbouring property** indicated that the site boundary was incorrect as shown on the Location Plan. The applicant provided a revised Location Plan to correct this error.

Shields Wilson (Structural Engineers) indicate their support for the application, saying *“it is positive to see local small businesses investing in the villages and rural area. It is in line with the local plan and planning legislation to support applications encouraging economic growth and it is our opinion that the proposed alterations are appropriate and will provide a worthwhile addition to the existing property.”*

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. The key considerations in regard to this application are:

- matters of principle;
- impacts on the character and appearance of the area;
- impacts on neighbours’ amenity;
- impacts on heritage assets; and
- flood risk.

Principle

Policy 1 of the Local Plan identifies Kirton as: an area where development is to be directed; and a Main Service Centre. The Policy goes on to indicate that, within Kirton’s Settlement Boundary, development will be permitted that supports the settlement’s role as a service

centre, helps sustain existing facilities, or helps meet the service needs of other local communities.

It is considered that these proposals meet these requirements of Policy 1.

Policy 24 identifies Kirton as a 'local centre' and as being within the second tier of South East Lincolnshire's retail hierarchy. The Policy goes on to indicate that town centre uses will be permitted *"where they, on their own or cumulatively with other permitted development, will generate no significant harm upon the vitality and viability of that centre or any other centre within the hierarchy, particularly with regard to their role for food shopping New development ... will be expected to :*

- 1. be physically integrated and have good pedestrian and cycle links with the rest of the centre;*
- 2. generate a reasonable level of footfall and be open to the public;*
- 3. contribute to an appropriate balance of uses;*
- 4. achieve an acceptable level of amenity, including provision of refuse and recycling facilities; and*
- 5. achieve an acceptable level of highway access, parking and servicing."*

It is considered that the:

- proposals will have no harmful impacts upon Kirton's Town Centre or any other centre within the retail hierarchy;
- application site is very well integrated and linked to the remainder of Kirton's centre;
- proposed accommodation will be open to the public and is likely to generate an increase in footfall;
- proposals will not harm the centre's current 'balance of uses';
- proposals will not require enhanced refuse/recycling facilities; and
- proposals will not alter current access, parking and servicing arrangements, and have not attracted any adverse comments from the Highway Authority.

It is therefore considered that these proposals meet the requirements of Policy 24.

In all, it is considered that these proposals are acceptable in principle.

Character and appearance of the area

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. Policy 3 requires high-quality design and layout, and indicates that designs which do not maximise opportunities to improve the character and quality of an area will be inappropriate.

The existing public house is substantial in size and is located immediately at the edge of the highway, and it is therefore a prominent element in the street-scene. However, the proposals involve no changes to the building's principal (south-eastern) elevation, and the proposed porch will not be visible from public vantage points. The new ground-floor windows and door which are proposed to be installed into the building's south-western elevation will be visible from the highway, but involve little change to the size of existing openings. Furthermore, the new windows and door (in their design and materials) are considered to be sensitive and respectful of the character of the existing building and surrounding area. The proposed fence is relatively low in height and short in length and

(in its design, materials and finish) will not appear out-of-place or alien given the existing context of the public house's smoking area/outdoor drinking area that it will enclose.

The proposals will increase the drinking/dining area of the public house but, in overall terms, represent only a relatively modest intensification of the existing use. Thus, it is considered that the change of use will not have harmful impacts upon the area's character in terms of increased noise or other disturbance.

In all, it is considered that the proposal will not have harmful impacts upon the character or appearance of the area, and will therefore meet these requirements of Policies 2 and 3.

Neighbours' amenity

Policies 2, 3 and 30 of the Local Plan require the amenity of neighbouring land users to be protected.

The application site has non-residential uses to most sides, namely:

- a beauty salon to its south-west;
- a disused former restaurant to its north; and
- offices to its north-east,

and it is considered that the proposals will have no unacceptably severe impacts upon these land users.

There are also dwellings to the site's west, east and south, but these properties are generally separated from the public house premises by significant separation distances. The proposals involve only very modest extension to the building (the new porch), and will therefore have no impacts on residential neighbours in terms of overshadowing, loss of light or harm to outlook. The proposals involve the creation of new windows in the building's south-western elevation, but these are ground-floor only and will not provide intrusive views towards any of the surrounding dwellings.

The proposals will increase the drinking/dining area of the public house but, in overall terms, represent only a relatively modest intensification of the existing use. Thus, it is considered that the change of use will not have harmful impacts upon neighbours in terms of increased noise or other disturbance, and the Borough Council's Environmental Health department raises no such concerns.

In all, it is considered that the proposals will have no unacceptably severe adverse impacts on any nearby land users, and that they therefore meet these requirements of Policies 2, 3 and 30.

Heritage assets

Policy 2 of the Local Plan requires sustainable development considerations to be met, including impact or enhancement for historical buildings and heritage assets. Policy 3 requires proposals to complement and enhance designated and non-designated heritage assets. Policy 29 requires the conservation and, where appropriate, enhancement of distinctive elements of the area's historic environment.

The Planning (Listed Buildings and Conservation Areas) Act 1990 confirms the duty of the Local Planning Authority to have special regard to the desirability of preserving: listed buildings, their setting and any features of special architectural or historic interest; and the

appearance and character of Conservation Areas. The objective of preservation is to cause no harm, and the courts have said that this statutory requirement operates as a paramount consideration - 'the first consideration for a decision maker'. Planning decisions require balanced judgement, but in that exercise, significant weight must be given to the objective of heritage asset conservation.

This statutory duty sits above the policy objectives identified above and, where harm would be caused, there is a necessity to establish the extent of that harm, and consider this within the policy context. In practice, this requires a methodical approach to be followed wherein the relevant assets which would be affected need to be identified, along with their significance. Consideration can then be given to any effects on this significance resulting from the proposals, which may be reduced through mitigation. If harm is identified, it is then required to establish the scale and extent of such harm, before moving on to matters such as the planning balance and weighing the public benefits arising against any identified harm.

Heritage assets affected

The Black Bull is unlisted, but the majority of the application site (including the public house building) is located within the Kirton Conservation Area.

Furthermore, the site and the building form part of the setting to several nearby listed buildings, namely:

- Church of St Peter and St Paul (grade I);
- churchyard cross (grade II);
- gravestone (grade II);
- churchyard wall and mounting steps (grade II);
- 30 London Road (grade II); and
- The Old Kings Head (grade II).

Impacts of the proposals on these assets

Heritage Lincolnshire indicates that *"the proposal is supported in principle as it is bringing a currently vacant and tired part of the building into use. This is deemed to be highly positive and an enhancement of the Conservation Area"* and, in more detail has identified that:

- the new door opening is acceptable;
- the proposed fencing is acceptable;
- the materials and design of the proposed windows and doors are acceptable;
- the proposed use of exposed brick for the walls of the new porch is acceptable; and
- the sample brickwork panel is acceptable.

Only one issue that initially concerned Heritage Lincolnshire remains unresolved – a sample or specification of the proposed timber panelling has not been provided, and must therefore be secured by condition.

The existing public house is substantial in size and is located immediately at the edge of the highway, and it is therefore a prominent element in the surrounding Conservation Area. The proposals involve no changes to the building's principal (south-eastern) elevation, and the proposed porch will not be visible from public vantage points. The new ground-floor windows and door which are proposed to be installed into the building's south-western

elevation will be visible from the highway, but involve little change to the size of existing openings. Furthermore, the new windows and door (in their design and materials) are considered to be sensitive and respectful of the character of the existing building and the surrounding Conservation Area. The proposed fence is relatively low in height and short in length and (in its design, materials and finish) will not appear out-of-place or alien given the existing context of the public house's smoking area/outdoor drinking area that it will enclose. In all, it is considered that the proposals will not harm the character or appearance of the Kirton Conservation Area.

The application site is surrounded by a number of listed buildings, which are predominantly located to the site's north and east. The proposed alterations to the public house:

- affect only its south-western elevation; and
- are sensitive to their surroundings in terms of their nature, design and materials,

and, in all, it is considered that they will have no harmful impacts upon the settings of nearby listed buildings.

Given the above (and subject to a condition requiring the approval of a sample or specification of the proposed timber panelling) it is considered that the proposals will have no adverse impacts upon heritage assets, and meet these requirements of Policies 2, 3 and 29.

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. More specifically, it states that:

- *"the sequential test is not required for ... change of use ...";* and
- *"change of use of existing buildings will be supported providing they do not pose an increase in risk to people."*

The Lead Local Flood Authority indicates that *"the proposed development would not be expected to ... increase surface water flood risk"*.

The application is accompanied by a Flood Risk Assessment which identifies that:

- the premises are within Flood Zone 3, but that there is no tidal flood risk, and any flood risk comes from failure of defences around the Rivers Haven and Welland;
- the internal floor-level of the stores is level with external ground-level
- the proposed use is not residential, and the proposals represent minimal risk to human life.

The public house is located within Flood Zone 3a, but the Environment Agency's mapping shows that it is exposed to: 'no hazard'; and maximum flood depths of 0m. Bearing in mind all the above, it is considered that the proposals will not pose an increase in risk to people, will not be unnecessarily exposed to flood risk, will not increase flood risk elsewhere, and meet these requirements of Policy 4

CONCLUSION:

The above assessment identifies that the proposals:

- will not harm the character and appearance of the area;
- will not harm neighbours' amenity;

- (subject to a condition) will not harm heritage assets;
- will be acceptable in flood risk terms; and
- meet the requirements of the relevant Policies of the South East Lincolnshire Local Plan 2019.

In these circumstances, it is considered appropriate for planning permission to be granted.

RECOMMENDATION: Approve with Conditions

CONDITIONS / REASONS			
Pre-commencement conditions?		Agreed with applicant/agent - Date:	
1	The development hereby permitted shall be begun before the expiration of three 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 be carried out in strict accordance with the application received on the 30 th October 2023, and the following associated drawings and documents: <ul style="list-style-type: none">▪ Drg. no. 3167-14 Rev. A - Location Plan;▪ Drg. no. 3167-16 Rev. A – Proposed Block Plan;▪ Drg. no. 3167-11 Rev. A – Proposed Ground Floor Layout;▪ Drg. no. 3167-13 Rev. B – Proposed External Elevations;▪ Drg. no. 3167-17 – Door and Window Details; and▪ e-mail sent at 14:24 on 3rd January 2024 indicating that the porch will be finished in exposed brick. Reason: To ensure that the development is undertaken in accordance with the approved details, and to comply with Policies 2, 3, 4, 24, 29, and 30 of the South East Lincolnshire Local Plan 2019.		
Conditions which apply during the course of and following completion of the development:			
3	Prior to the removal of the barn doors and the installation of the window unit and tongue and groove external quality timber panelling shown on Drg. no. 3167-13 Rev. B, a sample or specification of the proposed timber panelling shall be submitted to, and approved in writing by, the Local Planning Authority. The development shall be constructed in accordance with the sample or specification so approved and retained thereafter. Reason: In the interests of the appearance and character of the development and the visual amenity of the area (including the Kirton Conservation Area), and in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan 2019.		
4	The walls of the entrance porch hereby approved shall be constructed in Imperial Bricks Weathered Cheshire Pre-War bricks (the darker of the two samples provided on site and		

identified within Heritage Lincolnshire Response (5) received on the 22nd February). The brick work shall be completed in an English Garden Wall bond.

Reason: In the interests of the appearance and character of the development and the visual amenity of the area (including the Kirton Conservation Area), and in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan 2019.

**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 2023 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.