

Application Number:	2022/0796/FUL
Site Address:	5 Drury Lane, Lincoln, Lincolnshire
Target Date:	2nd December 2022
Agent Name:	Mr Neil Reynolds
Applicant Name:	ETS Align Limited
Proposal:	Change of use from art gallery (F1) to dental practice (E). Alterations to existing shopfront; installation of window to rear, west elevation; solar panels to roof and replacement of existing air-conditioning units and extraction system. (Revised description and plans).

Background - Site Location and Description

The application is for the change of use of 5 Drury from an art gallery (Use Class F1) to a dental practice (Use Class E). The application also proposes external alterations to the existing shopfront, the installation of a window to the west elevation, replacement of existing air-conditioning units and extraction system on the roof and also solar panels to the roof.

The application premises is a single storey building with a shallow mono-pitched roof hidden by a parapet wall around the front of the building. The frontage of the building, which incorporates a simple timber shopfront, sits on the west side of Drury Lane, almost opposite the junction with Wordsworth Street. The side, north elevation of the premises is adjoined to 4 Drury Lane, a two storey end terrace dwelling. The application premises extends west into the site and also abuts 'Dough Loco' to the north. The side, south elevation of the premises abuts the rear elevations of a terrace of residential properties including 6, 7, 8, 9 and 10 Drury Lane. To the rear, west of the site is a yard which is shared by the adjacent properties, including 11 Drury Lane. The premises is not listed although is located within the Cathedral and City Centre Conservation Area and is within proximity of the ramparts of Lincoln Castle, which is a grade I listed building and Scheduled Monument.

The premises is currently vacant, having most recently being occupied as the Sam Scorer Gallery since the late 1990s. The current floor plan is very open and stud walls will be erected to subdivide the premises to create consulting rooms.

The application has been revised during the process, namely a reduction in the number of solar panels and the addition of the window to the west elevation, facing the adjacent yard. These revisions will be detailed later within the report. The properties adjoining the yard were re-consulted to invite comments in relation to the window. The comments received and all other comments are copied in full and will be referenced within the report. A statement has also been submitted on behalf of the applicant to respond to the representations received, which is also included in the report.

Site History

No relevant site history.

Case Officer Site Visit

Undertaken on 14th October 2022.

Policies Referred to

- Policy LP1 A Presumption in Favour of Sustainable Development
- Policy LP2 The Spatial Strategy and Settlement Hierarchy
- Policy LP9 Health and Wellbeing
- Policy LP15 Community Facilities
- Policy LP25 The Historic Environment
- Policy LP26 Design and Amenity
- Policy LP27 Main Town Centre Uses - Frontages and Advertisements
- National Planning Policy Framework

Issues

- Policy context and principle of use
- Visual amenity and character and appearance of the conservation area
- Residential amenity and noise
- Parking and highways

Consultations

Consultations were carried out in accordance with the Statement of Community Involvement, adopted January 2018.

Statutory Consultation Responses

Consultee	Comment
Historic England	Comments Received
Highways & Planning	Comments Received
NHS - ICB	Comments Received

Public Consultation Responses

Name	Address
Mrs Fiona Carruthers	3 The Heights Carline Road Lincoln Lincolnshire LN1 1JP
Lucinda Phillips	Dentons Cottage Burton Lincoln Lincolnshire LN1 2RD

Mrs Hilary Bower	58 Mount Street Lincoln Lincolnshire LN1 3JG
Christine Brookman	93 Richmond Road Lincoln Lincolnshire LN1 1LH
Glen Scantlebury	1 Hillside Cottages Burton By Lincoln LN1 2RD
M Galoch	11 Drury Lane Lincoln Lincolnshire LN1 3BN
Dr Kevin Byron	195 Yarborough Road Lincoln Lincolnshire LN1 3NQ
Ms Lydia Bauman	24a St Mark's Rise Dalston E8 2NL
Ms Jaq McCaughern	30 Victoria Street Lincoln Lincolnshire LN1 1HY
Mr Biff Vernon	Tithe Farm, Church End North Somercotes Louth Lincolnshire LN11 7PZ
Ms Ruth Bell	7 Cowling Close Horncastle LN9 6QY
Mr Colin Dudman	59 Danesgate Lincoln Lincolnshire LN2 1ND
Mr Colin Hopkirk	34 Hawthorn Road Lincoln Lincolnshire LN2 4QX

Consideration

Policy Context and Principle of Use

Central Lincolnshire Local Plan (CLLP) Policy LP2 advises that the Lincoln Urban Area will be the principal focus for development in Central Lincolnshire. The application site has no specific policy allocation within the CLLP, although it is located just outside of the Central Mixed Use Area, the boundary falls on the opposite side of Drury Lane. Policy LP2 goes on to state that additional growth on non-allocated sites in appropriate locations within the developed footprint of the Lincoln urban area will be considered favourably. Policy LP1 and the National Planning Policy Framework (NPPF) also advise that applications should be considered in the context of the presumption in favour of sustainable development.

The premises has an established commercial use, most recently as an art gallery since the late 1990s and prior to this as an office/store. The principle of the proposed commercial use would therefore be supported in this location.

A number of representations have been received from residents within and beyond the city boundary objecting to the loss of the gallery. Comments raised include that this will be a loss of one of the few remaining art galleries/spaces in the city, which in turn will impact on artistic heritage and opportunities for the Arts to flourish in Lincoln. It is considered that the gallery is a tourist attraction and it is a loss of a cultural and community asset. One objector states that the proposed use will diminish the quality and nature of the conservation area.

CLLP Policy LP15 relates to community facilities. The supporting text for this policy advises that “there are many existing facilities embedded within our settlements that provide for the health and wellbeing, social, educational, spiritual, recreational, leisure and cultural needs of the community.” The policy requires that “all development proposals should recognise that community facilities such as leisure facilities, libraries, public houses, places of worship and community halls, or any registered asset of community value, are an integral component in achieving and maintaining sustainable, well integrated and inclusive development.” The policy states that in most instances the loss of a community facility will not be supported and sets out criteria for cases where the loss of an existing community facility to an alternative use that is not a community facility will be permitted.

While it is unfortunate that the previous use ceased to operate, it is arguable that a privately owned and privately run art gallery does not constitute a community facility as defined by the policy. However, the proposed use would be considered as a community facility and is likely to serve a larger proportion of the immediate and wider community than the current use. In any case, even if the former art gallery use were considered to be a community facility there would be no objection in policy terms to the use of the premises as an alternative community use.

Officers therefore have no objection in principle to the proposed use of the premises in accordance with CLLP Policies LP1, LP2 and LP15.

Visual Amenity and Character and Appearance of the Conservation Area

External alterations are proposed associated with the new use, namely alterations to the

existing shopfront, the installation of a window to the rear, the replacement of existing air-conditioning units and extraction system on the roof and also solar panels to the roof.

With regard to the shopfront, the existing arrangement comprises two timber framed windows and a recessed, glazed timber door. The application proposes to retain the general arrangement, including the tiled stallriser, but replaces the windows with mid-grey (RAL 9007) aluminium framed units. The adjacent timber door will also maintain the current proportion, but again be replaced with a mid-grey aluminium door. The signage will be altered, although this will be subject to a separate advertisement consent application.

CLLP Policy LP27 advises that proposals for alterations to frontages will be permitted provided they are a high quality design and sympathetic in scale, proportion and appearance to the building and to the character of the surrounding street scene. The policy also requires that, in the case of conservation areas, the appearance of the building should be enhanced.

Officers are satisfied that, whilst the material is to be changed from timber to aluminium, the overall proportion and arrangement of the shopfront remains as existing and therefore the proposals would be sympathetic to the building and wider area. Accordingly, it is also considered that the character and appearance of the conservation will be preserved and also enhanced by the updated windows and door. This aspect of the application would therefore accord with the requirements of CLLP Policies LP25 and LP27.

The window proposed to the rear, west elevation would be a mid-grey aluminium framed unit. This would sit at a high level. The owner of 11 Drury Lane has objected to the window considering it would impact on the character of the rear yard and make it look unsightly. The window is a relatively minor addition, measuring approximately 1200mm wide x 450mm tall, and would sit within the elevation that also includes an existing vent and fire escape door. The agent advises that the vegetation growing out of the wall is to be removed, which will be a visual benefit. Officers do not consider that the window would appear unduly prominent on the elevation and would not cause harm to the appearance of the building, adjacent yard or wider area, in accordance with CLLP LP26. The character and appearance of the conservation area would also be preserved, in accordance with CLLP Policy LP25.

Officers would note that the objection from the owner of 11 Drury Lane also states that the application premises has no rights of access across the yard for either the fire escape or to install and clean the proposed window. However, this is not a material planning consideration and is instead a private, legal matter between the applicant and owners of the yard.

The existing mono-pitched roof includes rooflights and three air-conditioning units. The two units at the front, east end of the roof behind the parapet will be removed and replaced with one unit. The unit towards the rear will be removed and replaced. There is no objection to the new units, which will not be visible from street level, although the reduction in the overall number of units is welcomed.

The application originally proposed two sets of solar panels; between the existing rooflights with another two smaller sets behind the parapet. These will face south at a 10 degree angle, sitting approximately 300mm above the roof. Historic England has been consulted regarding this element of the proposal. While there was no concern regarding the views of the panels from the castle walls, concern was raised regarding whether the

panels towards the front of the building would extend above the parapet and be seen from Wordsworth Street or Drury Lane. This was discussed with the applicant, and they have chosen to remove the four panels towards the front of the building. The remaining solar panels would be set back a sufficient distance from the frontage of the building and any views would be obscured by the roof of the terrace to the south. Historic England has confirmed that the removal of the four panels would address their concerns. Accordingly, officers also have no objection to the reduced number of solar panels.

Officers therefore have no objection to the additions and alterations to the premises and are satisfied that they would not cause harm to its appearance, original architectural style or the character of the surrounding street scene. The proposals would also preserve the character and appearance of the conservation area. The application with therefore be in accordance with the requirements of CLLP Policy LP25, LP26 and LP27.

Residential Amenity and Noise

CLLP Policy LP26 is relevant and requires that the amenities which all existing and future occupants of neighbouring land and buildings may reasonably expect to enjoy must not be harmed by or as a result of the development.

Given the existing commercial use of the premises officers are satisfied that the principle of the proposed use could be operated without having a negative impact on the amenities of residential properties or the local environment. The dentistry equipment will be housed within the building, however, due to the lack of windows, mechanical extract and air-conditioning is required. As previously referenced, there are currently three units on the roof which will be removed and replaced with two units. The owner of 11 Drury Lane has raised objection to the air-conditioning units on the grounds of noise.

The City Council's Pollution Control (PC) Officer has considered the application and advised that he has no objections in principle to the change of use. He has not raised an objection to the installation of the replacement air conditioning units and extract system; however, he considers that, due to the proximity of neighbouring residential properties, there is potential for noise and disturbance if they are not sympathetically designed and positioned. He has therefore requested a condition on any grant of consent that requires, prior to installation, the submission of a Noise Impact Assessment. The report will be required to identify any mitigation measures that are necessary to minimise the impact of noise. On the basis of this professional advice officers are therefore satisfied that any potential impact from noise will be assessed and mitigated as necessary.

The objection from the owner of the neighbouring 11 Drury Lane has also raised concerns regarding the window proposed within the rear, west elevation. This elevation, which currently incorporates a fire escape door and grille, faces onto the shared courtyard. The neighbour considers that the window will overlook the garden and will impact on privacy even if it is obscure glazed. The window is proposed to be obscure glazed and also fixed. Furthermore, it is positioned at a high level, the submitted photograph indicates that this will sit higher than the top of the existing fire escape door. With a condition to ensure that the window is obscure glazed, fixed and that the cill shall sit a minimum of 1.8m above the internal floor height, officers are satisfied that this will not provide the opportunity to overlook.

Officers are therefore satisfied that the proposed change of use and associated alterations would not cause undue harm to the amenities which occupiers of neighbouring properties and uses may reasonably expect to enjoy, in accordance with CLLP Policy LP26.

Parking and Highways

CLLP Policy LP9 requires that “proposals for new health care facilities should relate well to public transport services, walking and cycling routes and be easily accessible to all sectors of the community”.

The owner of 11 Drury Lane has raised concerns regarding parking. It is stated that there are residents parking bays in the area although there are issues with on street parking on Drury Lane and Carline Road. There is concern that the parking for six staff as well as customers will add to and intensify the on-street parking issues. Another objector also raises concern regarding the lack of parking and also the increased traffic down the narrow street.

The applicant’s supporting statement advises that some of the staff will walk or cycle each day, others will use public transport. Where there is a need for car use an annual pass will be purchased, it is noted that The Lawn currently has availability. With regard to patients the statement notes that most “will arrive at the Practice on foot or by other means of transport, often before, after or during their working or school day. Patients travelling by car often will treat the visit to the orthodontic practice as a linked-trip with other errands or visits in the city centre.” The elevation plans indicate that there is a possible area for cycle parking on the raised, recessed step. There are also a number of public car parks in the vicinity.

Lincolnshire County Council as Local Highway Authority has advised that they do not wish to restrict the grant of permission. They note that the proposal is for a change of use and alterations to the shop front, and does not have an impact on the Public Highway.

Officers consider that the development has opportunities to be accessed by foot, cycling and public transport. There are also car parks in the vicinity and on street parking would be restricted by the existing residents parking scheme. Based on the above and the advice from the County Council, officers are satisfied that the development would not result in levels of traffic or on-street parking which would cause either road safety or amenity problems. The proposal would therefore meet the requirements of CLLP Policy LP9.

Central Lincolnshire Local Plan Review

Review of the Central Lincolnshire Local Plan commenced in 2019. The 1st Consultation Draft ("Reg 18") of the Local Plan was published in June 2021, and was subject to public consultation. Following a review of the public response, the Proposed Submission Draft ("Reg 19") of the Local Plan was published in March 2022, and was subject to a further round of consultation. On 8th July 2022, the Local Plan Review was submitted to the Planning Inspectorate in order for it to commence its examination.

The Draft Plan may be a material consideration, where its policies are relevant. Applying paragraph 48 of the NPPF, the decision maker may give some weight to relevant policies within the submitted "Reg 19" Plan, with the weight to be given subject to the extent to which there may still be unresolved objections to those policies (the less significant the unresolved objections, the greater the weight that may be given).

Application Negotiated either at Pre-Application or During Process of Application

Yes, see above.

Financial Implications

None.

Legal Implications

None

Equality Implications

None.

Conclusion

The principle of the proposed, community use of this vacant commercial premises in this location is considered to be acceptable. The proposed alterations to the shopfront are sympathetic to the appearance of the building. The addition of a window to the rear and the extraction units and solar panels to the roof would not cause harm to the appearance of the building or the wider area. Accordingly, the proposals would preserve the character and appearance of the conservation area. With a condition to require a Noise Impact Assessment and necessary mitigation measures it is considered that the proposed use could be operated without having a negative impact on the amenities of adjoining residential properties, premises and the local environment. The window to the rear will also be controlled by condition so there is no impact on the privacy of the users of the adjoining yard. The location of the premises will enable the proposed use to be accessed by sustainable transport modes and there are also public car parks in the vicinity. The proposal would therefore be in accordance with the requirements of CLLP Policies LP1, LP2, LP9, LP15, LP25, LP26 and LP27 and the NPPF.

Application Determined within Target Date

Yes.

Recommendation

That the application is Granted Conditionally subject to the following conditions:

- Time limit to implement permission
- Development in accordance with approved plans
- Noise Impact Assessment and noise mitigation measures as necessary
- Window to rear to be obscure glazed, fixed and minimum of 1.8m above floor level