

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H09-1026-20 **Applicant:** Mr Z S Rasuli
Proposal: Change of use of shop to takeaway food outlet
Location: 26 High Street Holbeach Spalding
Terminal Date: 27th January 2021

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
24	The Retail Hierarchy
26	Primary Shopping Frontages
29	The Historic Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 3, 4, 6, 7, 12, 14 and 16.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
WARD MEMBER	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Full planning permission was granted for a change of use of a former butchers shop to a barbers shop and one other shop and creation of an apartment at the rear, plus alterations at 26 and 28 High Street in October 2020. This application is to change the use of 26 High Street from a shop to takeaway.

SITE DESCRIPTION

Inside Holbeach Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. The building is within Holbeach Primary Shopping Area.

The site is inside Holbeach Conservation Area. Nos 1, 3 & 5 Albert Street (grade II listed) are situated to the south-west.

RELEVANT HISTORY

H09-0677-20 - Full - Change of use of former butchers shop to barbers shop and one other shop and creation of apartment to rear, plus alterations - 26 & 28 High St, Holbeach - Granted 20 October 2020.

CONSULTATION RESPONSES

Holbeach Parish Council

We have received a number of complaints from parishioners about the need for another takeaway in the town in particular the anti-social behaviour and rubbish they attract. We have to represent the Holbeach parishioners and as such we are objecting to this on environmental and safety grounds.

Cllr. F Biggadike

Requests arrangements for the collection of food waste for disposal from the premises to be written into any planning decision granted to ensure hygiene standards are maintained along the High Street.

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

No comments.

SHDC Environmental Protection

Request details of proposed extraction and odour arrestment system.

Public

Objections received (summarised):

Too many takeaways within Holbeach. Already 11/12. Damage livelihoods of existing businesses. Innovation is what is required for Holbeach town centre.

Information from Applicant's Agent (summarised):

My client has purchased the former Butchers Shop known as Swebstones Butchers to create a Barbers Shop and has secured a planning permission reference H09-0677-20. There are still some conditions of this planning permission that need addressing that will get dealt with in due course however an interested party would like to rent the space adjacent at 26 High Street for a Hot Food Takeaway.

PLANNING CONSIDERATIONS

The main issues are:

- Policy/Principle;
- Character and amenity, including the effect of the development upon the setting of nearby listed buildings;
- Other material considerations, including flood risk and refuse disposal.

Policy/Principle

The unit presently has a retail use (Class A1) approved by virtue of planning permission ref. H09-0677-20 and is situated within Holbeach Primary Shopping Area. It is proposed to change the use to a takeaway food outlet.

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is inside Holbeach Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 indicates that within the settlement boundaries of the Main Service Centres, including Holbeach, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

Policy 24 of South East Lincolnshire Local Plan, 2019 (SELLP) states that in the District Centre of Holbeach and the Local Centres of Crowland, Donington, Kirton, Long Sutton and Sutton Bridge, 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 within the Sub-Regional, District and Local Centres 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."

Supporting text indicates that "while retail uses are fundamental for attracting customers, non-retail uses, such as cafes and restaurants, can add to the vitality of centres. However, poorly placed non-retail uses and an over-proliferation of similar uses such as hot-food takeaways and betting shops, particularly within the Primary Shopping Area, can negatively impact on the local amenity and activity within a centre and, therefore, will be resisted."

Policy 26 of the SELLP states that A1 units in the primary Shopping Frontages should be retained predominantly for retail use unless it can be demonstrated that the loss of an A1 unit, by change of use or redevelopment, will 1. make a positive contribution to the vitality and viability of the Primary Shopping Frontage; 2. not result in a loss of A1 floor space or frontage of a scale that undermines the retail function of the frontage; and 3. allow upper floors to be effectively used.

Concern has been raised by Holbeach Parish Council and local shop owners/residents on grounds that there are already too many takeaways (approx. 11/12) in the town. However, there is nothing specific within the SELLP on what constitutes an over-proliferation. Moreover, the takeaways are reasonably well separated. The neighbouring units are a barbers shop, A & S Hearing Services and a speciality foods shop to the east and a Chinese takeaway and barbers shop to the west. The uses within the town centre are still reasonably well balanced and the unit may well remain vacant for a length of time if the proposed use is not taken up. The unit is physically integrated within the town centre and would generate satisfactory footfall. Whilst a retail use would be preferable it is nevertheless considered that the proposal would not undermine the retail function of the frontage, or harm the vitality/viability of the shopping frontage and Holbeach town centre, or any other centre within the hierarchy. There are no upper floors in this case that could be brought back into use.

Ministerial advice indicates that considerations of commercial competition are not a material planning consideration and therefore carry no weight. It is not the role of the planning system to inhibit commercial competition.

From an amenity point of view, the building is within a town centre location where there is a mixture of commercial and residential uses and where ambient noise levels are generally higher due to

increased activity, traffic, etc, including during the evenings. Environmental Protection raises no objections subject to more specific details of the proposed odour extraction and arrestment system, which would be located at the rear. This, along with details relating to the storage and disposal of refuse, can be addressed by means of conditions.

Concerning highway issues, no on-site parking facilities are available. However, the site is in a town centre location within an area where public parking facilities are available. LCC Highways has raised no objections.

The proposal is therefore generally compliant with Policies 1, 2, 3, 24 and 26 of the South East Lincolnshire Local Plan, 2019. Policies 2 and 3 indicate, inter alia, that new development should have a satisfactory relationship with existing development and not have a significant impact upon neighbouring uses in terms of noise, odour, disturbance, etc. Although the proposal is not wholly in accordance with Policy 36 of the SELLP, which relates to parking provision, this matter is outweighed by other factors in favour of the scheme.

Character and Amenity

The site is inside Holbeach Conservation Area. Nos 1, 3 & 5 Albert Street (grade II listed) are situated to the south-west and All Saints Church (grade I listed) further to the west.

A new shop front has recently been installed in accordance with the terms of planning permission ref. H09-0677-20. The style of the building is reflective of a former butcher's shop and is quite contemporary in the town. It was previously considered that the alterations would offer no significant harm to the building or High Street and may well enhance the setting.

The proposal satisfactorily complies with Policies 2, 3 and 29 of the SELLP in terms of the aforementioned.

Flood Risk/Drainage

The site is within Flood Zone 1 on the Environment Agency Maps and an area of no hazard within the South East Lincolnshire Strategic Flood Risk Assessment. There are therefore no flood risk issues in this case.

Foul and surface water would be disposed of to the mains sewer as existing.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The proposal would bring a vacant retail unit back into use and the existing uses within the town centre would remain reasonably well balanced. It would not materially harm the viability/vitality of the town centre, or the character or appearance of Holbeach Conservation Area/setting of nearby listed buildings. There are no amenity issues subject to conditions relating to odour arrestment and storage/disposal of refuse. The proposal therefore generally accords with Policies 1, 2, 3, 24 and 29 of the South East Lincolnshire Local Plan, 2019.

On-site parking has not been provided; however, the site is in a town centre location within an area where public parking facilities are available. Although the proposal is not wholly in accordance with Policy 36 of the SELLP, this is not considered to be an overriding reason for refusal.

The concerns of Holbeach Parish Council and residents relating to an overprovision of takeaways have been taken into consideration, but are not considered to be sufficient as to outweigh factors in favour of the scheme. Ministerial advice indicates that considerations of commercial competition are not a material planning consideration and therefore carry no weight. It is not the role of the planning system to inhibit commercial competition.

Conclusion

The planning balance lies in favour of the proposal.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

RECOMMENDATION

The application was referred to Chairman's Panel on 22 January 2021, where a delegated approval was agreed.