DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0114-23**	**Applicant:**	**Mr C Bond**
Proposal:	Change of use of part of ground floor reception and first beauty salon area to cafe/takeaway serving hot and cold food		
Location:	35 New Road Spalding		
Terminal Date:	4th April 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
24	The Retail Hierarchy
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres

National Guidance

National Planning Policy Framework 2021

Section 7 - Ensuring the vitality of town centres
Section 12 - Achieving well designed places

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
SHDC INTERNAL	0	0	0	2
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Proposal is for the change of use of part of the ground floor reception and first beauty salon area to a cafe/takeaway serving hot and cold food at 35 New Road Spalding.

This is a change from Sui Generis to a class E usage.

Site Description

The site is a three-storey, end-terraced property. Black, timber-framed windows are present, preserving the early Victorian appearance of the terraced. The property and adjoining units to the east are flat roofed. To the east is "Booth's" store, and to the west is "Hot and Spicy", a hot food takeaway.

The property is within Spalding town centre, as outlined in the South-East Lincolnshire Local Plan, 2019 (SELLP), but is not indicated to be Primary Shop Frontage. The site is within the Spalding Conservation Area and in close proximity to two Grade II listed buildings. These properties are "The Punch Bowl", located two properties to the west, and the "Broad Street Methodist Church", located to the south-west.

Relevant History

H16-0647-07 - Full. Installation of replacement uPVC windows (retrospective). Refused 09/07/07. Decision appealed. Appeal dismissed 17/06/08.

H16-0466-90 - Full. Alterations to shop frontage. Approved 08/01/91.

H16-0465-90 - Full. Alterations to shop frontage. Approved 20/12/90.

H16-0995-89 - Full. Demolition of existing outbuildings. Approved 13/09/89

H16-0994-89 - Full. Rear extension. Approved 05/09/89.

H16-0287-76. Alterations to shop frontage. Approved 19/03/76.

Consultation Responses

SHDC Food Health and Safety

Draws attention to the need for adequate toilet facilities for both staff and customers.

Environmental Health

No objections

Resident Comments

Two objections received (summarised)

-Lack of parking

-Risk of additional noise pollution

-Over saturation of takeaways

Planning Considerations

Principle of Development

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 key material considerations are addressed below.

Policy 1 of the SELLP states that Spalding is a sub-regional centre, and therefore, development that supports this role will be permitted. The addition of further town centre uses. The proposal is within the Town Centre Boundary indicated in the SELLP; consequently, the retail policies of the local plan apply. Both Policies 24 and 25 of the SELLP indicate that uses that support the viability of town centres will be supported.

Policy 24 highlights that town centre uses will be the focus of development in this location, and that permission will be granted to food and drinks outlets. The explanatory text of this policy (in paragraph 6.2.6) goes on to state that retail uses are preferred in town centre locations, but non-retail units can support the vitality of the town centre, as long as they are well placed and not oversaturated. While there is a relatively high density of cafes and takeaways within Spalding, there is not currently an oversaturation. Furthermore, there is a high density of beauty salons and therefore, the loss of this unit will not have a significant impact. 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 Spalding town centre, or any other centre within the hierarchy.

Therefore, the proposal conforms to Policies 1 and 24 of the SELLP.

Layout, Design, Size and Scale

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area. That they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

The proposed alterations to the shop frontage are minimal. Signage will be altered to show the new name of the business. This sign will be matte black, with green writing. This will have a minimal impact on the aesthetic of the area.

Therefore, the proposal conforms to Policy 2 and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of NPPF amongst other matters, seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of the SELLP set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

The unit is situated within the town centre where general noise and activity is expected. While there may be an increase in footfall due to the change of use, this will not be significant considering the retail use of the area. In terms of noise, general disturbance, privacy, etc, it is not considered that there are any nearby residential properties in the vicinity which the proposal would detrimentally impact.

The proposal therefore satisfactorily accords with Policies 2 and 3 of the SELLP in amenity terms.

Heritage Impact

The site is located within Spalding Conservation Area. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, section 66(1) of the same Act requires that special regard must be had to the desirability of preserving the setting of listed buildings.

Section 16 of the NPPF and Policy 29 of the SELLP involve the preservation of heritage assets and conservation areas. Both polices indicate that proposals should conserve or enhance the conservation area and the surrounding area. The proposal features no major changes to the exterior of the property. As such, the proposal will have virtually no impact upon the integrity of the conservation area

The proposal therefore conforms to Policy 29 of the SELLP and Section 16 of the NPPF.

Planning Balance

Objections have been raised stating that there is insufficient parking to accommodate the cafe. As

the proposal is within the town centre, parking is not provided on site; with the necessary provisions being catered for by the town centre car parks. The objector also stated that there would be an increase of noise pollution, particularly after 4pm. It is accepted that the change of use may increase the noise level in the area, however, the increase would not be substantial or above that which is expected in this town centre location. an objection has also been raised regarding the over saturation of similar businesses in the area. While this comment is valid to some extent, the use as a cafe will still ensure the viability of the town centre. If the alternative is to let the unit become vacant, then the use as a cafe is certainly favourable. Therefore, while these objections are noted and appreciated, they are not found to demonstrably outweigh the benefits of approving the scheme.

There would be a negligible impact upon the conservation area, with there being no major external changes proposed. Similarly, there would be a minimal impact upon the design of the property. There is no potential for an increase in overshadowing and overlooking. The proposal therefore accords with Policies 2, 3 and 29 of the SELLP.

Attention has been drawn to the need for adequate space for a water closet by South Holland Food Health and Safety. There appears to be adequate facilities to accommodate the needs of the staff and customers on site.

The planning balance therefore is in favour of the proposal.

Conclusion

The recommendation is for delegated approval.

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.