DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0323-24**	**Applicant:**	**One Stop Stores Limited**
Proposal:	Change of use of part of the ground floor of the premises, to E(a) (Retail Sale of Goods), including alterations to the elevations and installation of new plant to the rear		
Location:	39 Albert Street Spalding		
Terminal Date:	10th June 2024		

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
27	Additional Retail Provision
28	The Natural Environment
31	Climate Change and Renewable and Low Carbon Energy
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
Section 12 - Achieving well designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1

HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
RESIDENTS	10	0	0	1

CASE OFFICER ASSESSMENT

Reason for Referral to Chairman's Panel

The proposal includes development that warrants consideration of members.

Description of Proposal

The proposal seeks full planning permission for the change of use of 39 Albert Street to a class E use. Part of the site is currently class E given its former use as an antiques and furniture sales unit; however, the eastern and western components have been restricted under previous permissions to be used solely for storage. This is further clarified within the supporting statement that identifies that:

"The existing building is currently partly vacant. The occupied parts are to the left side (East) of the building. The two storey part of the building is occupied and used as an A1 use class for antiques and furniture sales. The single storey left hand part of the building (East), has a use class of 'stores' and is proposed to be altered to E(a) use class, the current use class for goods sales (formerly A1).

The right hand part (West) of the building, are with two conjoined single storey structures, classified as warehouse use (storage), and as part of the proposals, these parts of the building shall be retained as storage use. The overall proposals are to return the premises into a functional use, as a retail convenience store, to the benefit of local residents and the local community".

In light of this, the application has been assessed given the extent of change of use outlined within the description of proposal and supporting information.

Overall, the proposal would see the creation of convenience goods space. The western portion would be used for storage, while the eastern portion would be used as a shop. The proposal includes several external alterations. Part of the western structure would be reconstructed and rendered white to match the host.

Modern sheet roofing materials would be used. Ten doors and windows would be removed, filled in with brickwork and rendered to match the host. Three additional doors (one to the rear, one to be used as a storage entrance and one as the primary entrance) are proposed. Two windows within the front elevation would be extended. It is proposed that plant equipment would be installed to the rear, with this being surrounded by an acoustic fence. Roller shutters are proposed on the windows and doors. Four areas of signage are proposed; however, these would be subject to a separate advertisement consent application.

Site Description

The site is within the settlement boundary of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. The site is located to the east of the settlement, between the

Coronation Channel and the River Welland. The area is primarily residential in nature, bar this existing commercial unit. The site is approximately 750 metres north-east of the defined town centre.

The existing unit is anomalous in the area. It is a white rendered building, functional in appearance. It is divided into an original two-storey component (previously occupied by an antiques dealer), with two, single-storey extensions flanking it (both of which have had their uses restricted to storage). There are no comparable structures within the immediate area.

Relevant History

H16-1211-85 - Full. Pre-fabricated storage extension. Approved 05/03/86.

H16-0897-95 - Full. Extension to premises to form store. Approved 09/11/95.

Consultation Responses

The responses received from consultees during the initial consultation exercises can be summarised as follows:

Environment Agency

"The Environment Agency does not wish to make any comments on this application"

South Holland Internal Drainage Board

"The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which may require Land Drainage Consent from the Board"

"It appears from drawing number 201 Rev B "Proposed Ground Floor Plan & Elevations - Planning" (Calford Seaden, March 2024) that the applicant intends to install bollards to the front forecourt of the development. It is unclear whether the bollards will be installed within 9 metres of the aforementioned Board Maintained watercourse. We will require further information on the location of these bollards. If the bollards are within 9 metres of the Board Maintained watercourse, consent will be required under Byelaw 10, and the applicant will need to contact this office at their earliest convenience to make an application for consent"

Highway and Lead Local Flood Authority

"The application is for the change of use of part of the ground floor of the premises, to E(a) (Retail Sale of Goods), including alterations to the elevations and installation of new plant to the rear. The site was a former shop & storage building. The existing use - part vacant part existing 2nd hand furniture sales. The proposal involves changing the ground floor to a convenience store. The usage precedent has already been set, the site is in a good location and there is parking to the front of the building. Should any vehicles park on the street this would not represent a safety issue at this location. The proposal would not have an adverse impact on the public highway"

Environmental Protection

"Suitable acoustic enclosures and if necessary fencing, as recommended by the noise assessment, should be used for the air conditioning units to attenuate noise levels, in order to protect amenity of nearby residents"

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 11 letters of representation have been received.

These can be summarised as:

- Noise from plant machinery
- Noise from shop customers and deliveries
- No need for a shop

- Lack of parking
- Impact on highway safety
- Increase in antisocial behaviour
- Litter
- Signage would be out of keeping with residential street
- Devalue property
- Disturbance via lighting
- Opening hours are too late, resulting in increased disturbance
- Object to the principle of the store
- Potential increase in damage to the road
- Object to the sale of alcohol

Key Planning Considerations

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as sub-regional centre within Policy 1. As such, development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within the boundary of the town of Spalding, development within this location is broadly considered appropriate, subject to other material considerations being met.

Where a proposal would involve the creation of additional retail space, Policy 1 is supported by Policy 24 of the SELLP. Policy 24 directs the development of retail units towards the town centres of the sub-regional centres. That being said, part C of this Policy enables the creation of smaller, local shops to be created outside of the defined retail hierarchy. The Policy states that:

"Outside the retail hierarchy, individual local shops and small neighbourhood clusters of them within a settlement boundary, which meet the day-to-day needs of nearby residents, will be promoted. Wherever possible such new uses should be located in close proximity to each other, unless serving very local catchments e.g. corner shops".

Policies 1 and 24 are further supported by Policy 27. With regards to the creation of additional convenience goods space, Policy 27 is split into sections B and C. As per Appeal Decision APP/A2525/W/23/3316411, both sections B and C are considered relevant when discussing the principle of development for the creation of convenience goods space.

Section B of Policy 27 states that there is "expected to be quantitative need for an additional 3,365 sqm (net) floor space by 2031. Such provision should be provided as small-scale units of up to 500 sqm (net) either within a new Local Centre to serve a Sustainable Urban Extension or to provide for an underserved area. Extensions which would take existing shops in these locations up to these sizes to improve their viability will be permitted".

While the proposal is within the defined settlement of Spalding, the site is not considered to be underserved. Within 1km of the site, which is considered to be a reasonable walking distance, are numerous comparable shops. Moreover, within 1.5km of the site is a Sainsbury's supermarket and the wider town centre area. The site is also not within a new Sustainable Urban Extension, and therefore fails to conform to this point of policy. It is considered that there is no substantive need for such a shop in this location, and for these reasons the proposal does not conform to Section B of Policy 27.

Turning to Section C of Policy 27, it is stipulated that "new shops in such circumstances, will be limited to a maximum 100 sqm (net) floor space, unless a qualitative need to remedy a geographical deficiency in the distribution of food shopping can be demonstrated, in which case units up to 500 sqm (net) floor space will be permitted. Extensions which would take existing local shops up to these sizes to improve their viability will be permitted, subject to the same demonstration of geographical deficiency for proposals over 100 sqm". The proposed shop, when considering the entire unit, would exceed 100sqm, and as such, is considered to be contrary to Section C. As discussed above, it is not considered that the site is within a geographic deficiency, and therefore, there is no requirement for the unit to exceed 100sqm.

The proposal has not been supported by evidence that demonstrates a qualitative need to remedy a geographical deficiency.

For the above reasons, it is considered that the proposal fails to conform to Policy 27 of the SELLP. As such, it is considered that the principle of development is unacceptable.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed and beautiful places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

It is of note that the proposed signage is subject to a separate application; and therefore, the

positioning and appearance of these adverts is not assessed in this report.

39 Albert Street is currently a visual anomaly in the area, with no buildings in the immediate area bearing any resemblance to it. Therefore, to a certain extent, greater leniency should be taken when assessing the character of the proposal.

A commercial use is already established on site; albeit, the site is currently vacent, matters similar to that of the aforementioned appeal. Therefore, the proposed use is not considered to be out of keeping with the established character of the area. Convenience stores are common in residential areas like this, and therefore, would not be appear out of character.

The proposed alterations to the doors and windows are considered to be acceptable from a visual standpoint. The loss of the windows would not detrimentally impact upon the character of the building. Likewise, the proposed new access would have no significant aesthetic impact. Furthermore, the proposed redevelopment of part of the west wing with like for like materials is not considered to have a significant character impact. The proposed acoustic fence would be located to the rear, and therefore, have minimal impact.

That being said, the proposed shutters are considered to be out of character with the residential nature of the area. The proposal would be somewhat at odds to the character of the building, resulting in an incongruous and unappealing development. The use of internal shutters would have a far lower visual impact and retain a more active frontage.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2023).

Impacts Upon Residential Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policies 2 and 3 of the SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. Policy 30 concerns potential pollution from developments, including noise and light pollution.

The proposal would not introduce any additional overlooking or overshadowing. The proposed removal of windows would reduce the number of possible views. No extensions are proposed which may overshadow neighbours.

The application has been accompanied by an acoustic report. This report outlines that the proposed plant equipment would have a significant impact upon residential amenity, unless appropriate mitigation is installed. It is recommended within the report that an acoustic fence is installed. The relevant consultee from the Environmental Protection Department has reaffirmed the need for these fences, although have raised no objection.

Whilst no opening hours have been provided, the submitted acoustic report alluded to potentially being open until 11pm. A number of objections have been received regarding the potential impacts arising from these opening hours and the generalised disturbance that the shop would cause. The volume of objections received on this point highlight the concern of nearby residents and it is considered that the proposal, when taking account of the increased extent of use that is likely to occur, alongside the extent of operative hours, would have a significant and unacceptable impact upon residential amenity in the area.

As detailed above, the proposal, given its resultant use, intensification and extent of operation, is considered to cause an unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to be contrary to Section 12 of the National Planning Policy Framework (December 2023) and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 115 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards. One space is required per 14sqm of convenience goods space.

To the front of the site is a significant parking area. It is considered that this space could adequately accommodate the required vehicle parking. Furthermore, this space could be used by delivery vehicles to safely load and unload stock, thereby reducing the highway impact. This view has been reaffirmed by the comments of the Highway Authority. While the objections received regarding highway impact have been noted, it is considered that these do not outweigh the comments of the Highway Authority, and therefore, it would be unreasonable to resist the proposal on these grounds.

The proposed location is accessible by sustainable methods of transport. Local residents could easily access the site on foot, thereby achieving the goals of Policy 33 and Section 9 of the NPPF.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 168 of the NPPF states " aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". The sequential approach is required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the SELLP is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is

therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the SFRA as a basis to apply the sequential test.

Within the SFRA the site is classed as danger for all, with a hazard depth of 2 metres.

While the site is within a high flood risk area, as the proposal is a change of use, the scheme is not considered to conflict with Policy 4 of the SELLP. The use would be no more at risk than the existing use.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Environmental Sustainability

In respect of the climate emergency, Section 14 of the NPPF states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

Section 15 of the NPPF promotes the conservation and enhancement of the natural environment. Paragraphs 180 and 185 ensure sites of biodiversity value are protected through the planning system; while Paragraph 186 states that "if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused".

In line with both aforementioned sections of the NPPF, Policies 28 and 31 of the SELLP ensure the preservation and enhancement of the natural environment and that suitable mitigation and adaptation to the climate crisis is in place.

The proposal would affect less than 25sqm of habitat. Therefore, the proposal would be subject to the de minimis exemption outlined within paragraph 17 of Schedule 7A of the Town and Country Planning Act 1990 and the Biodiversity Gain Requirements (Exemptions) Regulations 2024. As such, there is not the requirement for 10% Biodiversity Net Gain.

Taking the above into account it is considered that given the details submitted, and those required by suitably worded condition, the proposal is acceptable with regards to environmental sustainability. The proposal would therefore be in accordance with Policies 28 and 31 of the SELLP and Sections 14 and 15 of the NPPF.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

While the existing situation of the shop is unusual, and this has been factored into the decision making process, it is considered that the proposal is unacceptable. The proposal would fail to conform to Policy 27 of the SELLP, as there is no geographic dearth of convenience goods space in the wider area. Furthermore, it is anticipated that the proposed usage would significantly detrimentally impact neighbouring amenity through generalised disturbance caused by an increased footfall.

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.

Conclusion

Taking these factors into consideration, the proposal is considered to be contrary to Policies 1, 2, 3, 27 and 30 of the South East Lincolnshire Local Plan (2019), as well as Section 12 of the National Planning Policy Framework (December 2023). Therefore, the planning balance is against the proposal.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be refused under Delegated Authority.