

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H16-0409-19 **Applicant:** Mr Kamaran Omar Ali
Proposal: Change of use from car wash to car sales
Location: 14 Double Street Spalding
Terminal Date: 28th June 2019

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
29	The Historic Environment
30	Pollution
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework 2019

National Planning Policy Framework (2019).
Sections 2, 3, 4, 5, 6, 7, 8, 9, 12, 14 and 16

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	1	0
SPALDING CIVIC SOCIETY	1	0	0	0
SHDC INTERNAL	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Planning permission is sought for change of use of the site known as 14 Double Street, Spalding from car wash to car sales.

Site Description

The application site is within the Spalding Conservation Area and in close proximity to Grade II and II* listed buildings.

The site currently has no planning use.

History

H16-0883-13 Change of use of site for car washing and valeting (retrospective) - Approved 12 month permission.

H16-1019-14 Change of use of site for car washing and valeting (retrospective) - approved under H16-0883-13. Continuation of permission without complying with Condition 1 relating to time limit. REFUSED - Appeal DISMISSED on the grounds of impact on amenity, Inspector found no harm to heritage assets. Issues for dismissal - noise and disturbance and water run off.

Consultation Responses

Spalding Civic Society

-Objections

The application is lacking in detail concerning, for example, street boundary treatment, signage, office building. Car wash use is incompatible with Conservation Area streetscape and several nearby listed buildings. The site would be ideal for a town house.

Lincolnshire County Council SUDs (Highways) Do not wish to restrict the grant of planning permission.

Public:

1. Double Street is a busy, narrow in places, one-way street with lots of cars parked all along the street. We request that a condition of the planning permission stipulates that no cars owned by the car sales business be parked along Double Street.

2. The application states the site is not within 20 metres of a watercourse, we think the river is less than 20 metres away from the front of the site.

Planning Considerations

The main issues in this case are:

- Principle;
- Character/appearance including the effect of the development upon the setting of Heritage Assets
- The amenity of nearby residents;
- Highway safety;
- Other material considerations.

Principle

It should be noted that as the temporary permission for the car wash has expired there is no lawful commercial use on site.

This is technically a new use and new permission on this site.

The site is in a sustainable location within the built up area of Spalding in easy access distance of residential areas and close to Spalding town centre.

Character/Appearance/Heritage

The Inspector, while dismissing the previous Appeal, stated they did not consider there to be an impact on heritage from car wash, car sales would have more of a constant physical presence but would be similar in use and it is not considered to have an unacceptable impact on heritage.

Amenity

There are residential properties immediately adjacent and opposite and while this is a mixed area it is predominantly residential.

The Inspector previously noted noise and disturbance and spray and water run off as reasons to dismiss the previous Appeal.

Car sales would involve vehicle activity and movements which would be unacceptable and inappropriate in this residential area. Whilst there would not be spray/run-off from the activities on the site as with the car wash the activities on site would be likely to result in unacceptable harm to the living conditions of the occupiers of adjacent properties.

Highway Safety

The County Highways Authority does not wish to restrict the grant of permission on highway safety grounds.

Conclusion

The site is considered to be a sustainable location for development.

The proposal would not be likely to harm the character/appearance or setting of the Spalding Conservation Area or listed buildings on the vicinity.

The amenity of nearby residents would be affected by noise and disturbance as there would be activity on the site resulting from car sales/movements to a significantly greater degree than at present as the site has no lawful use.

- LCC Highways raises no objections on highway safety grounds.

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 to refuse permission 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 to grant permission 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 to refuse permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.