DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0695-25**	**Applicant:**	**The Lighthouse Pentecostal Church**
Proposal:	Change of use from retail (Class E (a) to mixed use, comprising of ancillary retail, cafe, play space, offices (Class E), Church (Class F1), a community meeting place (Class F2) and food bank (Sui Generis) - approved under H16-1093-23. Modification of Condition 2 to allow amendments to previously approved plans		
Location:	18-19 Broad Street Spalding Lincolnshire		
Terminal Date:	25th September 2025		

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

National Guidance

National Planning Policy Framework December 2024

Section 12 - Achieving well-designed places
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SPALDING & DISTRICT CIVIC SOCIETY	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a Section 73 planning application, its purpose is to allow for amendments to the previously approved plans secured under condition 2 of planning permission H16-1093-23.

The original permission permitted:

- Change of use from retail (Class E (a) to mixed use, comprising of ancillary retail, cafe, play space, offices (Class E), Church (Class F1), a community meeting place (Class F2) and food bank (Sui Generis)

Variation Sought

The amended plans show internal changes including the relocation of a staircase, new partition walls and the addition of new fire doors. These internal changes do not alter the layout of the building, the same uses will occur, provided for in the same locations, as approved in the original application.

Externally, a new entrance has been added to serve the soft play and cafe. This is proposed to be accommodated by replacing a display window with a new recessed double door. The doorway will lead to a reception serving the soft play and cafe. The door is recessed to allow the door to open outwards without opening onto the street. An outward opening door allows a higher capacity for the soft play in terms of fire regulations.

The proposal seeks then to supersede the following plans:

-HSS-AP-020/23 Rev A
-HSS-AP/030/23 Rev A
-HSS-AP/101/23 Rev A

And amended with:

- 241600-PL01 - Location Plan Ground Floor Plan and Elevation as Existing
- 241600-PL03 - First & Second Floor Plans -

It is of note that there are no changes to the approved management plan or flood risk assessment. Whilst all of the uses shown on previous plans are also contained within the updated floor plans.

Site Description

The application site relates to a vacant unit that last functioned as a department store, which now benefits from planning permission. It is located within the Town Centre and primary shopping area as well as Spalding Conservation Area. The building abuts number 17 Broad Street, which is Grade II listed, the opposite side of the building is The South Holland Centre. There are also a cluster of listed buildings nos. 21-26 Market Place.

To the front of the building is Broad Street and to the rear is Double Street, both having shop frontage entrances. There is an alleyway connecting these two streets, providing a pedestrian route between the former department store and The South Holland Centre.

The building itself is a three-storey property extending back in linear form to meet Double Street, the building retains sash windows to the frontage and a traditional style shop front at ground floors. To the rear there is also an entrance into the store, where an element of parking provision is also located.

Planning permission exist to allow the building to function as a mixed use development with a blend of community and town centre uses.

History

H16-1093-23 - Change of use from retail (Class E (a) to mixed use, comprising of ancillary retail, cafe, play space, offices (Class E), Church (Class F1), a community meeting place (Class F2) and food bank (Sui Generis). Approved 30-07-24

Consultation Responses

Cllrs Comments
This will provide services which will be welcomed by many in the area. This building has been disused for too long, its time now to let this building be utilised fully and will bring much needed footfall into the town centre

Spalding & District Civic Society

We see no reason why this amendment should not be approved and we will go with whatever advice SHDC Planning and Conservation officer recommend.

Highways & SuDs Support

The proposal is for minor amendments to condition 2 that already has approval under H16- 1093-23. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Environmental Protection

No comments on amendment.

Representations

The application has been advertised in accordance with the requirements set out within the Development Management Procedure Order 2015. One letter of support has been received which welcomes the reuse of the building.

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Evaluation - Section 73

The proposal relates to the variation of Condition 2 of H16-1093-23, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only

the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The effect of granting permission would be to issue a new permission with Condition 2 amended, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'. The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions.

The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted".

There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved". In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to conditions which go beyond 'minor' amendments.

It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Planning Considerations

The proposal seeks amendments to a previously approved permission. The amendments relate to internal alterations including the relocation of a staircase, new partition walls and the addition of new fire doors. Externally the applicant seeks to install a door entrance in place of a window opening.

The following issues are relevant to this assessment.

-Whether the changes are within the Scope of S73
- Heritage and Design impacts
- Other Matters
- Previously attached conditions
- Planning Balance

Whether the changes are within the Scope of S73

In terms of restrictions on what a S73 can be used for Planning Practice Guidance states "Planning permission cannot be granted under section 73 to extend the time limit within which a development must be started or an application for approval of reserved matters must be made. Section 73 cannot be used to **change the description of the development."** (Paragraph: 014 Reference ID: 17a-014-20140306)

The applicant is seeking to modify condition 2, to allow for some minor internal changes and the installation of a door in place of a window opening. Initially the submission did not show the cafe area at ground floor; this use was key to the assessment and subsequent approval of the scheme by planning committee. Following the submission of amended plans the cafe is now annotated on the plan.

The changes are not considered to either, extend the timeframe of the application nor alter the terms of the permission allowed. The proposed variations are therefore within the scope of Section 73.

On this basis a S73 is an appropriate planning application type.

Heritage and Design impacts

In respect of any buildings or other land in a Conservation Area, special attention must be paid to the desirability of preserving or enhancing the character or appearance of that area, through Section 72 the Planning (Listed Buildings and Conservation Areas) Act 1990.

The National Planning Policy Framework (NPPF) (December 2024) expresses the importance of considering the impact of development on the significance of designated heritage assets; advising that development and alterations to designated assets and their settings can cause harm. These policies ensure the protection and enhancement of the historic buildings and environments. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance should be treated favourably.

Section 16 of the National Planning Policy Framework (December 2024) states that "When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance".

SELLP Policy 29 sets out the local policy framework in respect of assessment proposals that affect the historic environment. The policy states that "To respect the historical legacy, varied character and appearance of South East Lincolnshire's historic environment, development proposals will conserve and enhance the character and appearance of designated and non-designated heritage assets, such as important known archaeology or that found during development, historic buildings, conservation areas, scheduled monuments, street patterns, streetscapes, landscapes, parks (including Registered Parks and Gardens), river frontages, structures and their settings through high-quality sensitive design."

SELLP Policy 29b is relevant directly to conservation areas, its states that *Proposals within, affecting the setting of, or affecting views into or out of, a Conservation Area should preserve (and enhance or reinforce, as appropriate) features that contribute positively to the area's character, appearance and setting. Proposals should:*

1. Retain buildings/groups of buildings, existing street patterns, historic building lines and ground surfaces;
2. Retain architectural details that contribute to the character and appearance of the area;
3. Where relevant and practical, remove features which are incompatible with the Conservation Area;
4. Retain and reinforce local distinctiveness with reference to height, massing, scale, form, materials and plot widths of the existing built environment;
5. Assess, and mitigate against, any negative impact the proposal might have on the townscape, roofscape, skyline and landscape;
6. Aim to protect trees, or where losses are proposed, demonstrate how such losses are appropriately mitigated against

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.

Policy 2 point 1 states that proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

Spalding & District Civic Society have been consulted and have no objections.

The building itself is not listed (though it is adjoined to a listed building) but is located within the Spalding Conservation Area. The only external works relate to the formulation of an entrance in place of an existing opening. The new entrance would retain the mouldings and piedmont above and surrounding and would have a limited impact upon the character of the building. Given the sensitive location the details of these doors will be controlled through planning condition. However considering the overall effect and that the architectural features of the building both inform and are retained as part of these works, the installation of a door way is considered acceptable.

It is therefore considered that, subject to the control over materials, the proposal would accord with Policies 2 and 29 of the South East Lincolnshire Icoal Plan (2019) and Section 16 of the National Planning Policy Framework (December 2024).

Other Matters

Both Highways and Environmental Protection have no objections. The assessment revolves around the external changes that involves a new entrance as well as internal alterations only. The floor plans show that the scheme will be succinct in terms of the way it is used, when considering the original terms of the permission and therefore there is no assessment on any use changes.

Previously attached conditions

The original permission was granted subject to three conditions; the time limit condition, the approved plans condition and one linking the development to a submitted management plan.

This application, if approved, would once again link the development to the management plan. In addition to this, a condition requiring the materials and elevations of the doors to be submitted prior to their insertion into the building, will also be attached.

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.

The proposal seeks minor building operations in order to install a new entrance as well as update the internal layout for building regulations purposes.

It is considered that there are no material considerations that would lead to a negative recommendation and the proposal is in line with the terms of the original permission achieved.

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 the above considerations into account, the proposal is considered to accord with policies 1, 2, 3, 4, 29, 30 & 36 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (December 2024).