

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0713-24 **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 - re-submission of H16-0323-24

Location: 39 Albert Street Spalding

Terminal Date: 17th October 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
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
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
SHDC INTERNAL	0	0	1	1
RESIDENTS	10	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks full planning permission for the change of use of 39 Albert Street to a class E use. This is a resubmission of H16-0323-24, providing further justification for the proposal.

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 which states:

"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".

The application has been assessed accordingly, with obvious focus given to the existing use class of the unit. In essence, the change of use primarily relates to the eastern wing of the unit.

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 for the aforementioned alterations. 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 (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.

H16-0323-24 - Full. 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. Refused 04/06/24.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Environment Agency

"This proposal comes under cell C7 of the local flood risk standing advice; however, as the application seeks the change of use within the 'less vulnerable' flood risk vulnerability classification, we have no comments to make on the proposal. The application does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. We do not need to be consulted further on this application."

Highway and Lead Local Flood Authority

"No Objections - Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

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.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application."

Environmental Protection

Initial comments received 19/09/24

No comments regarding land contamination

Further comments received 01/10/24:

"the proposed cooling plant and remedial measures to reduce noise impact are acceptable "

Sir John Hayes MP

I have recently been advised that a revised application has been submitted for change of use - resubmission of H16-0323-24.

As you will recall, I submitted an objection to the original application and my views remain unchanged following this latest proposal.

I share my constituents' concerns about the increase in traffic movements along what is already a busy link road to schools. It could lead to inconsiderate parking which would be dangerous to other road users and pedestrians. The potential for increased anti social behaviour is a worry; there will also be an increase in noise disturbance for neighbouring properties from the extended opening hours, compared to an antique shop. Furthermore, Albert Street is subject to a 7.5 tonne weight limit for a reason but, of course, I imagine the delivery vehicles will be much heavier than this. My constituents are concerned about the impact increased traffic movements could have on their properties.

My constituents have pointed out that there are already a considerable number of convenience stores in the area so there is no need for a further outlet.

To this end, I would be grateful if you could treat my letter as an objection to this latest application."

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, 9 letters of representation have been received, all of which cite objections to the proposal.

These can be summarised as:

- Sufficient retail provisions in the area which fully meet the needs of the area
- Increase in traffic
- Long opening hours will be detrimental to quality of residents life
- Possible rise in anti-social behaviour
- HGVs creating traffic and noise disturbances
- No resident engagement prior to submission
- Lack of parking
- Property values
- Noise disturbance from plant equipment
- General noise and disturbance
- Litter

A further public objection was received during the consultation period for this application; although cited the previous case reference number. In the interest of completeness, this is summarised below:

- Object due to impact on standard of living
- Potential for anti-social behaviour
- Object due to increase traffic

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 when viewed in broad principle, 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".

The site is not within a sustainable urban extension, and therefore, the below assessment focuses primarily with the issue of the location being underserved. Concerning the location of essential facilities, the National Design Guide states "local facilities are within walking distance, generally considered to be no more than a 10 minute walk (800m radius)." This distance is reaffirmed within the manual for streets. It is on this basis that an assessment of "underserved" is taken.

The application has been accompanied by a Retail Assessment in order to demonstrate a geographic deficiency, including a review of the existing retail units within 500 metres and 1km of the site. There are two convenience stores open within 500 metres of the site identified within the submission, with an additional unit currently undergoing renovations along Acacia Avenue. A further four shops are identified as within 1km of the site. Importantly, all of these stores identified within the Planning Statement/Retail Assessment are located to the north or west of the site. In addition to those identified within the submission, a Tesco Express is located approximately 1km to the south.

Based upon this assessment, it is not considered that the unit would help to serve the community along Albert Street or the land to the west of the site; both of which are adequately accommodated for by the stores identified by the submitted assessment (namely Londis, 8 Holbeach Rd and Spalding Express, 24 Commercial Road). Although temporarily close for renovations, it is considered that Acacia Stores (101 Acacia Avenue) adequately addresses the needs for a convenience store for residents to the north of Albert Street.

While there is a greater deficiency of retail space to the south of the site, it is not considered that a unit on Albert Street would meet the needs of these residents to a significantly greater extent than

what is currently available to these residents. For a significant proportion of residents along Halmer Gate, and the streets emerging from this road, the town centre or Tesco Express (Matmore Gate) are closer than the proposed unit. The majority of those residents who are located over 800 metres from these sites would still be within 800 metres of alternative stores outlined within the retail assessment. Similarly, there is somewhat of a geographic deficiency of stores to the east of the site; however, the unit at 39 Albert Street would be no more accessible than its counterparts previously mentioned.

Policy 27B also states: "Extensions which would take existing shops in these locations up to these sizes to improve their viability will be permitted". As outlined above, it is not considered that the site is within an urban extension or an underserved area and therefore, this section of Policy is not relevant to the proposal. In any event, no details have been provided here to show that an extension to the existing Class E unit is required on viability grounds.

Based upon this submitted information, it is not considered that the proposal would provide for an underserved area. Therefore, the proposal is not considered to achieve the requirements of Policy 27B.

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.

It is of note that eight of the nine resident objections received and the objection received by the MP have stated that ample retail provisions are already available within the area. This evidences a lack of need for a retail unit of this scale in the area.

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.

The submitted Planning Statement referred to the rebuild of the eastern wing; however, the Design and Access statement and the elevation drawings both show that it is the western wing to be reconstructed. For the avoidance of doubt, the following assessment proceeds on the basis the western wing is to be reconstructed.

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 vacant, 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. That being said, it is considered that this issue could be resolved via an appropriately worded condition should an approval be granted.

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 SELLP and Section 12 of the NPPF.

Impacts Upon Resident 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 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 potential amenity impacts of the proposal must be considered in light of what could be achieved under permitted development. The partial conversion of the unit could occur regardless of the outcome of this decision, creating the agent of change which would impact upon residential amenity. Within this context, the weight attributed to such matters is reduced slightly. An assessment should therefore be based upon the greater intensity of the use created by the eastern wing of the development.

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. Within the relevant report, it is stated that this fence should reduce the impact of the plant equipment to a negligible level. This proposed scheme of mitigation has been considered acceptable by the

Environmental Protection department.

The application has proposed opening hours of Monday - Sunday 07:00 - 22:00. These opening hours have been proposed in an attempt to address the second reason for refusal of H16-0323-24. While these opening hours are not unusual for a convenience goods space such as this, the increase in footfall resulting from the proposal coupled with the proximity to nearby residential units would result in some level of amenity disturbance. Despite the potential for part of the conversion to be undertaken regardless of the outcome of this application, it is considered that the increased footfall at later hours would result in a significant impact upon residential amenity, evidenced by the significant level of objections citing these concerns on this matter.

Concerns were raised previously regarding the amenity impacts that deliveries for the business would create. It is considered that these concerns can be alleviated via an appropriately worded condition restricting hours of delivery.

Objections have been received citing potential anti-social behaviour resulting from the development. It is considered that this carries limited planning weight and it cannot be assumed that the operation of a convenience store would result in any such behaviour.

As detailed above, the scale and design of the proposal is considered to have a significant and 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 fail to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan 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. In any event, the nature of the business, where the desire is to serve a catchment area of 500m, the tangible demand for parking would be low.

This aforementioned parking area could also be used to accommodate delivery vehicles, enabling them to safely load and unload stock, without significantly impacting upon the flow of traffic. While resident objections regarding parking have been noted, it is considered that the proposal complies with the requirements of Appendix 6, and is therefore acceptable.

The Highway Authority has raised no objection to the proposal, stating that adequate parking would be available on the site and that it is not anticipated that the proposal would have an adverse impact upon the public highway.

Several objections have been received from local residents as well as the MP for the area with respect to the potential impacts upon the highway network. However, the comments of the lead Highway Authority carry significant weight on this matter. Therefore, despite the significant local opposition on the grounds of highway impact, it is considered that it would be unreasonable to resist the application on the grounds of highway impact.

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 new 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. The submitted information has not adequately demonstrated a need for convenience goods space at this scale in the area. Furthermore, it is considered that the later openings hours of the store would result in a significant level of amenity disturbance.

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 and 27 of the SELLP. 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.