DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0957-20**	**Applicant:**	**Switha Ltd.**
Proposal:	Demolish existing buildings and erect two non food retail warehouse units, external garden centre, 24 one and two bedroom flats, parking for 161 cars and associated works - approved under H16-0610-05. Modification of Condition 2 to allow the sale of food & drink items from Unit 2.		
Location:	Carpetright 70 Westlode Street Spalding		
Terminal Date:	25th January 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
24	The Retail Hierarchy
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres
26	Primary Shopping Frontages
27	Additional Retail Provision
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

NPPF 2019.

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	1	0	0	0
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	0	0	0	2

CASE OFFICER ASSESSMENT

PROPOSAL

Demolish existing buildings and erect two non food retail warehouse units, external garden centre, 24 one and two bedroom flats, parking for 161 cars and associated works - approved under H16-0610-05. Modification of Condition 2 to allow the sale of food & drink items from Unit 2.

Condition 2 of H16-0610-05 is as follows:

The retail warehouses hereby permitted shall not be used for the sale of food and drink for consumption off the premises (other than confectionery and pet foods), clothing, fashion accessories (including handbags, luggage, watches and jewellery), footwear, sports goods (equipment and clothing), books, stationery, toiletries and perfume, audio and visual recordings, cutlery, crockery or glasswear, unless any of the above are ancillary to, and related to the main ranges of goods permitted for sale.

Reason: To ensure that the development does not adversely affect the vitality and viability of Spalding town centre, in accordance with Policy STC4 of the South Holland District Local Plan.

The applicant justifies the application by stating that the variation would allow the occupation of the unit as a small supermarket should the current tenant vacate for whatever reason. No particular tenant is known at this stage and indeed the unit may remain as a non food retailer within the terms of the original consent.

No external changes are proposed in this application.

SITE DESCRIPTION

The application site is within the Spalding Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. The site is also defined in the local plan as part of Spalding Town Centre. Spalding is defined in the SELLP as a Sub-Regional Centre.

The primary retail core around Broad Street and New Road is some 260 metres to the west at its nearest point.

The glossary to the NPPF defines edge of centre for retail purposes as locations well connected to and up to 300 m from the primary shopping area. Under this definition the site is in an edge of centre location.

The NPPF also sets out the circumstances in which an impact assessment should be carried out. It sets a threshold in the absence of a locally adopted figure of 2500 sq m net - accordingly an impact assessment would not be required for this application under the NPPF.

The subject property is a large retail warehouse unit, rectangular in plan form and measuring around 604 sq m gross internal area. It is currently occupied by Carpetright, a national retailer of carpets and floor coverings. It is one of two units forming the Spalding Retail Park. Unit 1 was originally built as a garden centre, and is now occupied by B&M Retail Ltd. The retail park has 138 parking spaces, partly to the front of the units but also extending to the south west. The car park is monitored to prevent long stay parking by non customers.

Vehicular access to the car park is from Westlode Street through a high brick framed entrance with sliding steel barriers. There is a separate service access for both units further to the east along Westlode Street.

There are residential uses to the east and along Albion Street/Double Street to the south of the retail park. These are a mixture of older traditional two storey dwellings but single aspect

apartments have also been built as part of the original scheme for the retail park on the southern elevation of unit 1.

RELEVANT PLANNING HISTORY

H16-0819-18. SECTION 73 APPLICATION. (Former Homebase Store 70 Westlode Street - the adjacent unit) Demolish existing buildings and erect two non-food retail warehouse units, external garden centre, 24 one and two-bedroomed flats, parking for 161 cars and associated works approved under H16-0610-05. Modification of Condition 2 to allow beneficial occupation of vacant store by B & M Retail Ltd. APPROVED. 05-11-18.

The relevant condition 3 was altered to the following:

The retail warehouses hereby permitted shall not be used for the sale of food and drink for consumption off the premises (other than confectionery and pet foods), clothing, fashion accessories (including handbags, luggage, watches and jewellery), footwear, sports goods (equipment and clothing), books, stationery, toiletries and perfume, audio and visual recordings, cutlery, crockery or glassware, unless any of the above are ancillary to, and related to the main ranges of goods permitted for sale.

Notwithstanding the above up to 340 sq.m. net of food and drink products can be sold from the retail warehouse. The sales of these products on an ancillary basis only while the primary use of the premises is a DIY and Home Improvement store with garden centre.

Reason: To ensure that the development does not adversely affect the vitality and viability of Spalding town centre, in accordance with Policy EC8 of the South Holland Local Plan 2006.

H16-0610-05. Demolish existing buildings and erect two non-food retail warehouse units, external garden centre, 24 one and two-bedroomed flats, parking for 161 cars and associated works. APPROVED. 09-06-05.

REPRESENTATIONS

SHDC Economic Development Department

The Economic Development Department are not minded to support this application as Spalding is already well served with existing convenience retail, and adding further will at best compromise some of the smaller independent retailers who are the lifeblood of small market towns such as Spalding, and businesses that we would wish to retain. Furthermore, a unit of this type fits well with the wider aspiration of providing opportunity for comparison shopping in and around the town centre. For these reasons, we are objecting to this proposal.

LCC Highway and Lead Flood Authority

Does not wish to restrict the grant of permission.

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 submitted Transport Statement provides sufficiently robust evidence that the existing car parking within the Westlode Street retail park would have sufficient residual parking spaces in the event that Unit 2 were to be permitted to sell food and drink items. The retail park's existing arrangements provide safe and suitable vehicular, cycle and pedestrian access and secure cycle parking is available within the retail park. Therefore, the proposed modification of Condition 2 of H16-0610-05, to all the sale of food and drink items from Unit 2, would not be expected to result in an unacceptable impact upon highway safety. The Authority therefore does not wish to object to this planning application.

Spalding & District Civic Society

Comments (Summarised):

- Policy 25 of the South East Lincolnshire local plan which required that a review of The Town

Centres and Retail Capacity Study will be commenced within one year of the adoption of the Local Plan.

- The planning statement supporting the application refers to this and states at paragraph 6.112 "The 2013 study is now somewhat dated but in the absence of the 2020 update promised by the adopted local plan, it is the latest available."

- Relationship to the town centre.

- Policy 24 includes a general provision for town centre uses to be located within town centres stating that such uses will generally be permitted. It does however identify five factors that new development will generally be expected to meet.

- Consider that the conclusion that an impact assessment is not required by the applicant in this case is questionable. The development is not integrated with the town centre in the way that it would be if there was a direct pedestrian access from Broad Street to the car park. It is on the fringes of the town centre.

- Consider that that there is a need for an up to date town centre and retail capacity study for Spalding at least, as the increase in uptake in internet shopping since 2013 has changed the extent of that capacity. Such a review would enable a fully informed decision to be made regarding this application.

- In the absence of that review an impact assessment may be appropriate.

The Rt Hon Sir John Hayes CBE MP

Objection (Summarised)

- The original permission imposed this condition for valid reasons, to ensure the development did not adversely impact the vitality and viability of Spalding Town Centre.
- A number of well established businesses have been forced to close. Do not want to see further decline.
- Already more than enough food and retail outlets within vicinity. These include B&M, two convenience stores on Westlode Street, a mini-supermarket on Pinchbeck Road and numerous takeaway outlets.

Public

One comment that swift boxes should be designed in to the new development.

PLANNING CONSIDERATIONS

-Principle of Development
-Sustainability
-Layout and Design
-Highway safety and parking
-Impact of neighbouring Residents/land users

Principle of Development

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

The NPPF contains a presumption in favour of sustainable development. In terms of determining planning applications it states that this means approving proposals that accord with the development plan without delay but where the development plan is absent, silent or relevant policies are out of date, granting permission unless any adverse impacts of doing so would significantly and adversely outweigh the benefits.

Paragraph 8 onwards of the NPPF sets out the 3 dimensions to sustainable development; an

economic role, a social role and an environmental role.

Section 7 of the NPPF 2019 seeks to protect the vitality of town centres. Para 90 of the NPPF concludes on retail matters by advising that where an application fails the sequential approach or would be likely to have a significant adverse impact, it should be refused. The corollary of this is that if the sequential approach is passed (or is otherwise not relevant) and there isn't evidence of a likely significant impact, permission should be granted.

As can be noted above, the purpose of Condition 2 of the 2005 consent (H16-0610-05 refers), was to ensure that the development does not adversely affect the vitality and viability of Spalding town centre, in accordance with Policy STC4 of the South Holland District Local Plan. A key consideration with regard to this current application is whether the relaxation of this condition to allow for the occupation of the unit as a supermarket would have a detrimental impact on the vitality and viability of the town centre, in line with the current Local Plan (SELLP) and the provisions of the NPPF 2019, with regard to the provision of convenience shopping and the reduction in comparison shopping at this unit.

Spalding is considered to be a sub-regional centre, by Policy 24:Retail Hierarchy, as defined by the Town Centre Boundary, which is to be the locational focus for the development of town centre uses; planning permission will be granted for retail, food and drink outlets, financial and professional services, leisure and tourist-related uses and residential development.

The vitality and viability of centres in the retail hierarchy will be maintained and enhanced. Proposals for retail use outside the Primary Shopping Areas as identified on the Policies Map, or for other main town centre uses, outside the town centre boundaries and where not provided for under Policy 27, will be required to demonstrate their suitability through a sequential test in line with the National Planning Policy Framework.

Policy 25: Supporting the Vitality and Viability of Boston and Spalding Town Centres, is clear that Spalding town centre will continue to be the primary destination for retail, entertainment, markets and events in the District, and the Council will promote appropriate opportunities to support and extend the offer of the town centres as destinations. The policy states that:

The Councils (SHDC and Boston BC) will promote appropriate opportunities to support and extend the offer of the town centres as destinations through the following:

1. Supporting the redevelopment of land within the town centre boundary that can provide for retail and other town centre uses in accordance with the sequential test;

2. Enhancing existing sites and ensuring changes to premises have regard to the significance of heritage assets and the special interests of the Conservation Areas and their settings;

3. Enhancing the public realm through improvements to public spaces, accessibility and signage;

4. Promoting town centre events;

5. Providing interpretation and promotional information;

6. Supporting proposals that seek to maintain the viability and attractiveness of the weekly markets;

7. Encouraging opportunities to support temporary uses in vacant premises in the primary shopping areas.

The Primary Shopping Frontage of Spalding is designated on the Policies Map. Policy 26: Primary Shopping Frontages.

Para 6.5.1 of the SELLP sets out that the need to identify and plan for further retail provision within the retail hierarchy is fundamental to delivering the Local Plan's priorities for sustainable growth. Based on trading density, Boston and Spalding have been identified as the most sustainable locations for retail growth over the Local Plan period.

Accordingly, the Town Centres and Retail Capacity Study (2013) considers that no additional retail floor space is required in the District and Local Centres over that period. However, this study is to be reviewed and to review retail capacity, town centre boundaries, primary shopping frontages etc.

This will lead to a review of the Retail section of the Plan and will advise the most appropriate actions for the partnership to take, e.g. masterplans, site specific development briefs, town centre boundary reviews etc. (Policy 25).

Policy 27: Additional Retail Provision looks at the provision of comparison and convenience shopping floor space. This policy concentrates comparison shopping increases to Springfields Shopping and Festival Gardens.

Policy 27 sections A. and B. are set out below:

A. Comparison goods floor space

Up to 17,294 sqm (net) of additional comparison goods floor space is expected to be needed within Boston Town Centre by 2031. All provision should be consistent with the Centre's scale, function and physical capacity to integrate extensions.

Up to 10,810 sqm (net) of additional comparison goods floor space is expected to be required in Spalding by 2031. Approximately 3,700 sqm (net) will be allocated at Site SHR010: Springfields Shopping and Festival Gardens and developed in the period up to 2022 to meet the estimated need at this date.

Any non-A1 uses within Site SHR010 will only be supported where the applicant can show that it is ancillary to the effective functioning of the retail allocation. A master plan will be required for the site identified.

Any application at Site SHR010 to meet the allocated comparison floor space need will be required to propose measures to enhance the site's connections to Spalding Town Centre and promote the attractiveness of the town centre as a place to visit.

After 2022 the outstanding requirement for 7,110 sqm (net) floor space should only be met by development in Spalding Town-Centre or an edge-of Centre location in accordance with the sequential test.

B. Convenience goods floor space

There is no quantitative need for additional convenience goods floor space in the Local Plan area before 2021. There is expected to be a 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 reasoned justification for Policy 27 is clear that:

6.5.2 *In the food grocery sector, the pressure for additional floor space or additional large stores is not high and the future demand for convenience goods within South East Lincolnshire is likely to be met by existing commitments and organic growth in the short term. Up to 2031, additional provision should be made through small supermarkets or convenience stores (of up to 500sqm net) to meet underserved areas or to anchor new Local Centres in the Sustainable Urban Extensions. Therefore, there is no need to allocate sites for convenience floor space to meet any potential demand arising in the Local Plan period.*

6.5.3 *In terms of comparison-goods floor space (e.g. clothes and household goods) the focus should be on improving the offer within Spalding and Boston Town Centres. It is envisaged that the requirement of 17,294 sqm for Boston can be delivered on redundant or under-used sites or as extensions to the existing retail offer within the town centre or at edge-of-centre locations.*

6.5.4 *However, the more compact form of Spalding Town Centre and the unavailability of suitable land within or close to the Town Centre means that the additional floor space cannot be accommodated in accordance with the 'town centres first' approach. As such Policy 27 provides for additional comparison floor space at SHR010: Springfields Shopping and Festival Gardens...*

6.5.7 *Sets out an unallocated level of 5,410 sqm (net) for COMPARISON shopping that is left unallocated, pending the review of the plan and an update of the Retail Capacity Study. A sum of*

convenience shopping is not given the same accommodation, and the provisions of the plan stand.

Part B of Policy 27 is clear that there is no quantitative need for additional convenience goods floor space in the Local Plan area before 2021. Although there is expected to be a quantitative need for an additional 3,365 sqm (net) floor space by 2031.

When looking at such provision retail units to satisfy this need 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. The current proposal does not fulfil these policy aims.

It is considered that the potential relaxation of the condition on this unit to provide a convenience retail unit of 604 sq m gross internal area in this location would not accord with the wider aims of ensuring adequate comparison shopping for Spalding town centre, nor is it proven that such a use would not impact negatively on the existing convenience shopping offer in the town centre. For these reasons the proposal is considered to be contrary to Policies 24, 25 and 27 of the South East Lincolnshire Local Plan 2019 and the provisions of the NPPF 2019.

Sustainability

The site is defined in the Local Plan as part of Spalding Town Centre. Spalding is defined in the SELLP as a Sub-Regional Centre. The primary retail core around Broad Street and New Road is some 260 metres to the west at its nearest point.

The glossary to the NPPF defines edge of centre for retail purposes as locations well connected to and up to 300 m from the primary shopping area. Under this definition the site is in an edge of centre location.

As a geographical location for retail premises, this site is considered to be sustainable in its broadest terms, however there is a wider policy concern in the form of Policy 27, to be balanced against this.

Layout and Design

There are no external changes to the building at this time.

Highway safety and parking

There are no changes to the parking levels on this site at this time. The 138 space parking area serves both retail units on this site.

Impact of neighbouring Residents/land users

Condition 25 of the host consent (H16-0610-05 refers) specifies that the service yard shall not be used for the overnight operation of internal combustion engine operated vehicle refrigeration motors.

Condition 42 states that the service yard access gates shall remain closed at all times other than when service vehicles are entering or leaving the site.

Condition 23 of the host consent (H16-0610-05 refers) controls the deliveries to and from the site - No deliveries shall be taken at or despatched from the site outside the hours of 08.00 to 19.00 Monday to Saturday or the hours of 10.00 to 17.00 on Sundays .

It is not considered that there would be sufficient impact as a result of this proposal that would warrant a refusal of permission based upon the residential amenity of adjoining occupiers, under Policies 2 and 3 of the SELLP.

Other matters

A representation regarding the inclusion of swift boxes in new development has been received. It is to be noted that no new development is being proposed by this application.

Planning Balance

Officers consider that the planning balance in this case is to give significant weight to Policy 27 of the SELLP, and on this occasion the impact of the proposal on the wider viability of Spalding Town Centre has not been adequately considered by the applicant. It is considered that Policy 27 should take precedence in this case over the wider geographical sustainability of this site.

Conclusion

Refuse for the following reason:

It is considered that the potential relaxation of the condition on this unit to provide a convenience retail unit of 604 sq m gross internal area in this location would not accord with the wider aims of ensuring adequate comparison shopping for Spalding town centre, nor is it proven that such a use would not impact negatively on the existing convenience shopping offer in the town centre. For these reasons the proposal is considered to be contrary to Policies 24, 25 and 27 of the South East Lincolnshire Local Plan 2019 and the provisions of the NPPF 2019.

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.

RECOMMENDATION

Recommendation is for delegated refusal.

Note: This application was referred to Chairman's Panel on 11 December 2020, where it was agreed the decision could be delegated to officers.