DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-1105-21**	**Applicant:**	**WaffleOpolis Ltd.**
Proposal:	Change of use from a charity shop E(a) to a waffle house takeaway (Sui Generis)		
Location:	2 Sheep Market Spalding		
Terminal Date:	27th December 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
09	Promoting a Stronger Visitor Economy
24	The Retail Hierarchy
29	The Historic Environment
30	Pollution

National Guidance

National Planning Policy Framework 2021

Section 7- Ensuring the vitality of town centres
Section 12- Achieving well-designed places

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for a change of use from a charity shop E(a) to a waffle house takeaway (Sui Generis) at 2 Sheep Market, Spalding.

Site Description

The site lies within the Spalding Conservation Area, according to the SELLP (2019) and is generally bounded by commercial properties. The area is an established commercial urban area consisting of a mixture of shops, office, leisure and residential uses taking the form of properties generally addressing the street frontage via shop fronts. Sheep Market is partly within the primary shopping area, according to the SELLP (2019).

History

No relevant planning history.

Consultation Responses

Local Highway and Lead Local Flood Authority - Does not wish to restrict the grant of permission. The site is located in a central urban area where services and facilities are within a reasonable distance to be accessed via sustainable travel options such as walking, cycling and public transport and therefore parking is not essential for this proposal.

SHDC Environmental Protection Officer - No objection.

Public (1 no. comment) - This will be welcomed to the town, especially for the young families that currently have very limited places to go for food. Great idea and good luck to the applicants.

Planning Considerations

Principle of development

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The site is inside Spalding Settlement Limit as defined in the South East Lincolnshire Local Plan (SELLP), 2019. Policy 1 indicates that within the settlement boundaries of the Main Service Centres, including Spalding, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

As the proposal site is within Spalding Town Centre, it is the general rule under Policy 24 of the SELLP (2019) that premises in such a location should be reserved for A1-A5, B1, D1 and D2 uses (now mostly under different classes due to amendments to the Use Classes Order).

The supporting text goes on to say that "while retail uses are fundamental for attracting customers, non-retail uses, such as cafes and restaurants, can add to the vitality of centres. However, poorly placed non-retail uses and an over-proliferation of similar uses such as hot-food takeaways and betting shops, particularly within the Primary Shopping Area, can negatively impact on the local amenity and activity within a centre and, therefore, will be resisted. Accordingly, a balanced approach to new development in town centres will be undertaken to promote an attractive customer experience; new uses will be permitted as long as the level of new development promoted is appropriate to its location, and does not undermine that centre's position in the hierarchy or the role of any other centre identified. Uses which attract a reasonable level of customers and therefore footfall will be supported, as these can generate passing trade for other shops and facilities in that part of a town centre thereby aiding the prosperity of the centre overall."

As a Waffle House Takeaway is Sui Generis, it falls outside of the uses set out above. However, as a takeaway can be defined as selling hot food for consumption, it is offering a service to the general public. Furthermore, there is nothing specific within the SELLP on what constitutes an over-

proliferation. There currently appear to be no takeaways in Sheep Market, with the neighbouring units being a watch/jewellery clinic and hair salon in one direction, and a micropub and travel agents the other. The closest takeaways are on Station Street and New Road and these offer a different type of product to that proposed in this case. The uses within the town centre are still reasonably well balanced and the unit may well remain vacant for a length of time if the proposed use is not taken up. The unit is physically integrated within the town centre and would generate satisfactory footfall. Whilst a retail use would be preferable, it is nevertheless considered that the proposal would not undermine the retail function of the frontage, or harm the vitality/viability of the shopping frontage and Spalding town centre, or any other centre within the hierarchy.

In light of the above, the proposal is considered to generally accord with Policies 1 and 24 of the Local Plan.

Layout and Design

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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 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.

The site is located within Spalding Conservation Area. In accordance with the duty imposed by section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990 local planning authorities are required to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore, section 66(1) of the same Act requires that special regard must be had to the desirability of preserving the setting of listed buildings.

Policies 2 and 3 of the SELLP essentially indicate that new development should be acceptable in terms of character and appearance and have a satisfactory relationship with existing development. Policy 29 indicates that proposals should enhance or reinforce the character and appearance of a conservation area and not harm the setting of a heritage asset. Paragraph 193 of the Framework states that when considering the impact of new development on the significance of a designated heritage asset, great weight should be given to the asset's conservation.

No alterations to the external fabric of the building have been proposed as part of this application, therefore the change of use would not adversely alter the character of the Conservation Area.

Amenity

The unit is situated within the town centre where general noise and activity is expected. Moreover, the proposed use would generate a reasonably similar number of visitors compared to the previous charity shop. In terms of noise, general disturbance, privacy, etc, it is not considered that there are any nearby residential properties in the vicinity which the proposal would detrimentally impact.

The proposal therefore satisfactorily accords with Policies 2 and 3 of the SELLP in this respect.

Planning Balance

No objections are raised to the proposal on principle, character, heritage, amenity and highway safety grounds.
The proposal therefore satisfactorily accords with Policies 1, 2, 3, 24 and 29 of the SELLP, 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.

Conclusion

The planning balance lies in favour of the proposal. It is therefore recommended that the application be approved under delegated powers.