DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H17-1036-20**	**Applicant:**	**Mr M Morris**
Proposal:	Renovation and change of use of derelict building to community hub - approved under H17-1064-17. Modification of Condition 5 to allow an extension of opening hours from 9.00am to 11.00pm Monday to Sunday.		
Location:	42-44 Station Road Surfleet Spalding		
Terminal Date:	13th January 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

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

National Guidance

National Planning Policy Framework 2019

Section 12 of the National Planning Policy Framework, 2019.

12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
SHDC INTERNAL	0	0	0	1
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73 application relating to the renovation and change of use of derelict building to community hub - approved under H17-1064-17. The application seeks a modification of Condition 5 to allow an extension of opening hours from 9.00am to 11.00pm Monday to Sunday. Condition 5 of the approval states "The use hereby permitted shall not be open to customers except between the hours of 10am to 5pm (Monday to Sunday), and 8am to 6pm (Saturdays relating to the sports facility only)."

SITE DESCRIPTION

The proposal site is within defined settlement limits, in a row of linear development. The surrounding area is predominately residential and is characterised by dwellings of varying ages and designs. The site is in Environment Agency Flood Zone 1 and is subject to "Low Hazard" with a maximum predicted flood depth of 0.25 metres on the 0.1% 2115 South Holland Strategic Flood Risk Mapping.

HISTORY

H17-1064-17

Full - Renovation and change of use of derelict building to community hub - 09 February 2018.

CONSULTATION RESPONSES

SHDC - Environmental Health Technician

No objection in principle but would ask that permission be temporary to enable any potential impact neighbouring properties to be assessed.

Surfleet Parish Council

Support.

Member of the public - 1 no. objection

Need - There is a Village Hall two doors away for such purposes as parties etc and we don't think it necessary for Tonic 44 to stay open until 11pm any day of the week especially a Sunday.

Noise - Opening at 9am is fine but closing at 11pm we are objecting to. After hockey training which finishes between 9pm and 10pm there are a lot of fast cars on this road as the boys race home. This is normally a quiet road with many elderly people living near Tonic 44 who would not appreciate having noise at 11pm each night or any night.

PLANNING CONSIDERATIONS

Principle of development

The proposal does not seek any alterations to the building, solely to the opening hours. The site is within defined settlement limits so the principle of development is agreeable, and has previously been established under approved application H17-1064-17.

Assessment against SELLP Policy 2 - Development Management

This proposal is assessed against SELLP Policy 2 titled - Development Management. This policy states:

"Proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to:
1. 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;
2. quality of design and orientation;
3. maximising the use of sustainable materials and resources;

4. access and vehicle generation levels;
5. the capacity of existing community services and infrastructure;
6. impact upon neighbouring land uses by reason of noise, odour, disturbance or visual intrusion;
7. sustainable drainage and flood risk;
8. impact or enhancement for areas of natural habitats and historical buildings and heritage assets;
9. impact on the potential loss of sand and gravel mineral resources."

When assessed against the above relevant criteria the following can be observed:

4. The application does not propose an intensification of the use, but to extend the hours of opening. It is not considered that this will materially impact the existing access or car park provision.

5. The proposal is considered to improve community services and infrastructure.

6. There may be a potential for noise from the use, however, there is no history of noise complaints from this site with the Environmental Health Department. The Environmental Health Technician has suggested a temporary permission to see if any complaints arise from the increase in hours. After this temporary period a further application would need to be made if the applicant wishes to retain the proposed hours. There is not considered to be an odour or visual intrusion impact from increasing the hours of opening. There have been complaints with regard to the behaviour of car users on and near the site, however, the behaviour of drivers is beyond the remit of planning.

The proposal is considered to accord with SELLP Policy 3.

Assessment against SELLP Policy 3 - Design of New Development

This proposal is assessed against SELLP Policy 3 titled - Design of New Development. This policy states:

All development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. 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.
Development proposals will demonstrate how the following issues, where they are relevant to the proposal, will be secured:
1. creating a sense of place by complementing and enhancing designated and non designated heritage assets; historic street patterns; respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area;
2. distinguishing between private and public space;
3. the landscape character of the location;
4. accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways;
5. the provision of facilities for the storage of refuse/recycling bins, storage and/or parking of bicycles and layout of car parking;
6. the lighting of public places;
7. ensuring public spaces are accessible to all;
8. crime prevention and community safety;
9. the orientation of buildings on the site to enable the best use of decentralised and renewable low-carbon energy technologies for the lifetime of the development;
10. the appropriate treatment of facades to public places, including shop frontages to avoid visual intrusion by advertising, other signage, security shutters, meter boxes and other service and communication infrastructure;
11. residential amenity;
12. the mitigation of flood risk through flood-resistant and flood-resilient design and sustainable drainage systems (SuDS);
13. the use of locally sourced building materials, minimising the use of water and minimising land take, to protect best and most versatile soils;
14. the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity, green infrastructure, flood risk mitigation and urban cooling;
15. the appropriate use or reuse of historic buildings.

When assessed against the above relevant criteria the following can be observed:

8. Crime prevention or community safety is not considered to be impacted by this proposal.

11. There may be a potential for noise from the use, however, there is no history of noise complaints from this site with the Environmental Health Department. The Environmental Health Technician has suggested a temporary permission to see if any complaints arise from the increase in hours. After this temporary period a further application would need to be made if the applicant wishes to retain the proposed hours. There is not considered to be an odour or visual intrusion impact from increasing the hours of opening. There have been complaints with regard to the behaviour of car users on and near the site, however, the behaviour of drivers is beyond the remit of planning.

The proposal accords with SELLP Policy 3.

Assessment against SELLP Policy 30 - Pollution

This proposal is assessed against SELLP Policy 30 titled - Pollution. This policy states:

Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon:
1. health and safety of the public;
2. the amenities of the area; or
3. the natural, historic and built environment; by way of:
4. air quality, including fumes and odour;
5. noise including vibration;
6. light levels;
7. land quality and condition; or
8. surface and groundwater quality.
Planning applications, except for development within the curtilage of a dwelling house as specified within Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development)(England) Order 2015, or successor statutory instrument, must include an assessment of:
9. impact on the proposed development from poor air quality from identified sources;
10. impact on air quality from the proposed development; and
11. impact on amenity from existing uses.
Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided.
Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks. Proposals will not be considered favourably unless the land is, or can be made, suitable for the proposed use.

When assessed against the above relevant criteria the following can be observed:

1. The health and safety of the public is not considered to be affected by the proposed extension of hours of operation as there are to be no alterations to the the layout of the site.

5. There has been a sole objection about noise, however, the objection relates to how site users rev their engines and drive fast. The behaviour of vehicle owners is beyond the remit of planning. No formal noise complaints have been received by the Council in relation to the current use. A temporary approval has been requested by the Environmental Health Technician so the potential for late night noise can be assessed. It considered that a one year period would be an approval length of time in which to do so.

The proposal is considered to accord with SELLP Policy 30.

Assessment against SELLP Policy 32 - Community, Health & Well-being

This proposal is assessed against SELLP Policy 32 titled - Community, Health & Well-being. This policy states:

Development shall contribute to: the creation of socially-cohesive and inclusive communities; reducing health inequalities; and improving the community's health and well-being. To this end, development will not be permitted unless it (where possible and appropriate):
1. protects and enhances existing public rights of way, and creates new links to the rights of way network; and

2. creates environments which:
i. discourage crime and disorder, and do not create the fear of crime;
ii. encourage healthy eating and local food growing;
iii. are accessible to all sections of the community;
iv. facilitate walking, cycling and public transport use; and
v. encourage community use.

Where a development will increase the need for community facilities (education, childcare, teenage services, emergency services, social care, health care, libraries, museums, other cultural facilities, places of worship, community halls, sports facilities, recreational open space, or other green infrastructure), it will not be permitted unless it (where necessary) supports the provision of new facilities, and/or the enhancement of existing facilities in accordance with Policy 5.

When assessed against the above relevant criteria the following can be observed:

2i. Crime and disorder is not considered to be impacted by this proposal.
2iii. The site is accessible to all sections of the community as it is close to the village centre and is served by a pavement with a car park to the front of the site.
2v. The proposal is a functioning community hub that offers cafe provision and a variety of recreational activities.

The proposal is considered to accord with SELLP Policy 32.

PLANNING BALANCE

It is considered that the extension of hours may be appropriate for the site, however, the suggestion by the Environmental Health Technician of a temporary permission is imposed to assess potential noise and disturbance is the best way to determine any impact from late night operations. A temporary one year condition will be applied. After this period, if the applicant wishes to retain the hours of opening on a permanent basis they can make an application to do so.

The proposal is considered to be in accordance with policies 1, 2, 3 and 32 of the South East Lincolnshire Local Plan, 2019.

CONCLUSION

The recommendation is temporary approval for a one year period.

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.