

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 17 July 2024

(Author: Mark Niland - Planning Officer)

Purpose: To consider Planning Application H16-1093-23

Application Number: H16-1093-23

Date Received: 05 December 2023

Application Type: FULL

Description: 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)

Location: 18-19 Broad Street Spalding

Applicant: The Lighthouse Pentecostal Church

Agent: Aspbury Planning

Ward: Spalding Castle

Ward Councillors: Cllr G J Taylor

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-1093-23>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 This application was deferred from the committee meeting held on Wednesday 6th March 2024.

2.0 PROPOSAL

2.1 This is a full planning application for the change of use from a vacant retail store to a mixed use, comprising ancillary retail, cafe, play space, offices (Class E), Church (Class F1) and a community meeting place (Class F2) and foodbank (Sui Generis).

2.2 The proposals show a soft play area and cafe at ground close to the main entrance on Broad Street, a multi-use area for children and youth and a youth zone (youth clubs). There is also a food bank located at ground floor. A church hall, furniture store, cafeteria is located on first along with a book shop, reception area and food bank. On second floor staff room, toilets and office space.

2.3 There are no changes to the external appearance of the building.

3.0 SITE DESCRIPTION

3.1 The application site relates to a vacant unit that last functioned as a department store, 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.

3.2 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.

3.3 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.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

4.2 South East Lincolnshire Local Plan, March 2019

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) of the Planning and Compulsory Purchase Act 2004, as amended, states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Policy 1 - Spatial Strategy

Policy 2 - Development Management

Policy 3 - Design of New Development

Policy 4 - Approach to Flood Risk

Policy 24 - The Retail Hierarchy

Policy 25 - Supporting the Vitality & Viability of Spalding Town Centre

Policy 27 - Additional Retail Provision

Policy 29 - The Historic Environment

Policy 30 - Pollution

Policy 32 - Community, Health and Well-being

Policy 33 - Delivering a More Sustainable Transport Network

Policy 36 - Vehicle and Cycle Parking

4.3 National Guidance

4.4 National Planning Policy Framework (NPPF), December 2023

Section 2 - Achieving sustainable development

Section 4 - Decision-Making

Section 7 - Ensuring the Vitality of town centres

Section 8 - Promoting healthy and safe communities

Section 9 - Promoting sustainable transport

Section 12 - Achieving well-designed and beautiful places

Section 14 - Meeting the challenge of climate change, flooding and coastal change

4.5 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 The only site history since 2007 is listed below. Prior to this the planning history relates to similar applications relating to signage and fixtures associated with the building.

5.2 H16-0529-07 - Proposed door and alterations to fence. Approved 18-06-07

6.0 REPRESENTATIONS

6.1 Consultation Responses

6.2 The responses received from consultees during the initial consultation exercises can be summarised as follows:

6.3 Highways & SuDS Support

6.4 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.

6.5 Environmental Protection

6.6 No objections following review of management plan.

6.7 Conservation Officer

6.8 In this instance, the application seeks no alterations to the external elements of the building, and as such, the proposal would not risk any material impact upon the conservation area and therefore can be considered to preserve the area by lack of impact.

6.9 However, as mentioned in the applicant's planning statement, any proposed future signage should be closely scrutinised and the applicant should be aware that it will be a basic expectation that all such signage should fully meet the standards of high quality signage in the conservation area.

6.10 Representations

6.11 This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 35 comments have been received, though there are some instances where a representee has sent more than a single comment, therefore some duplication has occurred in places.

These 35 representations include 33 in support, 1 representation and 1 in objection.

6.12 In support, the material topics are as follows:

- Increase footfall into the town
- Good range of services
- Increasing the safety of town users
- Benefit for the community
- Gives the youth somewhere to go after school
- Central location is easily accessible
- Provides a much needed service
- Benefit to vulnerable groups

6.13 In objection, the material topics are as follows:

- Loss of retail
- Not increase footfall in terms of shoppers
- Ruin the heart of the shopping centre
- Properties exist outside of the primary shopping centre for such uses

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

7.2 The proposal is located within the primary shopping area, town centre and Conservation Area. The proposal is to change the overriding Class E use of the building to a mixed use, comprising of mainly F2 (youth clubs), Food Bank (Sui Generis) and E Class and uses at ground, F1 use at first floor which comprises of place of worship and ancillary cafeteria, there are further uses at first floor which appear to be ancillary uses to the place of worship, they relate to a book store

and furniture store, the upper floor is given over to a further ancillary environment with offices and toilets amongst other things. There is also a space proposed for safe refuse in conjunction with the street pastors initiative. It is noted that the applicant has described the food bank use as Sui Generis within the proposal title, the report will work on this basis.

7.3 The following issues are therefore relevant to this assessment:

- 7.4
- Update since last Committee
 - Legal challenge on SELLP Policy 26
 - Submission of a Management Plan
 - Submission showing evidence of Marketing

 - Principle of Development
 - Loss of Retail Floor Space
 - Community Uses
 - Heritage & Design
 - Environmental Issues (Including Amenity)
 - Highways

7.5 **Update for members**

7.6 This item was previously heard by Planning Committee on Wednesday 6th March 2024. It was agreed that the application be deferred for further detail to be provided by the applicant to alleviate Members concerns and for the applicant and officers to work together to resolve issues through the application process and come up with appropriate conditions, where necessary, before the application is brought back before a future Committee for consideration afresh. The application was again scheduled to be on the agenda for June 12th Planning Committee, however insufficient time was left for officers to make an assessment of the marketing and consequently it was felt that Members could not be advised accordingly.

7.7 Subsequently and since the last time this application was heard by Planning Committee the applicant provided the following:

- Legal challenge to the application of Policy 26 in this assessment
- A Management Plan
- Marketing information (provided by the agent on 17th May)

7.8 *Application of Policy 26*

7.9 The application site is located within the 'Primary Shopping Area' and on the edge of the 'Primary Shopping Frontage'. Within the policy justification the interchange in text between the two areas (given their reliance on one another) and that the SELLP Policies Map key states that Policy 26 is applicable within 'Primary Shopping Areas' it was considered appropriate to apply to the assessment, and, on this basis the previous report and subsequent reasons for refusal referred to SELLP Policy 26 as a material consideration when forming the assessment.

7.10 On further reflection and having internally reviewed the legal application of the policy, officers at South Holland District Council have agreed to take the position that SELLP Policy 26 is not applicable in this instance. Instead, the other relevant retail town centre policies will be utilised for the principle assessment such as SELLP Policy 24 'The Retail Hierarchy' and Policy 25 'Supporting the Vitality and Viability of Boston and Spalding Town Centres' in regards to the assessment upon the impact to the town centre.

7.11 *Management Plan*

7.12 The Lighthouse Church have provided a management plan. The plan lists the 'current & anticipated activity' under each use that make up the holistic submission, the project attendance, description of what each use entails is written down along with the associated operational hours. This now sits alongside the proposed floor plans.

7.13 One of the activities that formed much discussion by Planning Committee was the 'Street

Pastors Hub'. This section of the management plan shows that it will be contained within two rooms of the building and access would be gained through the main entrance from Broad Street, the plan states that 'The facility will be staffed by trained individuals with safeguarding experience'.

- 7.14 The document by dividing all of the uses in this way and directing them to an area of the building along with the hours they are to operate allows for mitigation of externalities that may be brought about by the proposed use. Should the building operate beyond the described nature of the management plan it is likely that the applicant would need to update this, this can be therefore controlled through planning conditions to protect local business as well as residents within the town centre vicinity.
- 7.15 Contained within the management plan is noise information. This information presents data based upon the existing noise environment within the building, the section evaluates the findings, stating that "Equipment was set up in the building to create a mock service with sound being played higher than is ever reached in our current church services, which have never caused complaints despite being in a much more residential area on Haverfield Road. The readings showed that even when reaching 100db inside the building, the sound outside, even on the car park immediately outside the window, could only be heard lightly and not at all if a car was passing. Around the side and at the front of the building the sound could not be heard at all."
- 7.16 This document is taken into consideration in the relevant sections of the updated officer report (Environmental Issues & Amenity).
- 7.17 *Marketing Information*
- 7.18 An important point to make in relation to the marketing is that there is no requirement within the local plan to demonstrate through marketing that a justification exists to support, what would be in this instance, a departure from the plan. Therefore the weight given to the marketing, as well as its content is a matter of judgement.
- 7.19 The agent has submitted letters detailing the approach to the marketing of the building, this shows the property has been on the market with both Pygott & Crone as well as Savills. The former being instructed in June 2023 and Savills (who are their joint agency) were instructed in January 2024 during the application process.
- 7.20 The length of time this property has been on the market is not made explicit, but it is clear that the premises were first marketed by Pygott & Crone before Savills had any involvement. The property is on the market for a fee of £750,000.
- 7.21 Pygott & Crone have confirmed that the premises has been marketed on the following platforms:
- Pygott & Crone Website
 - Our network of offices including our London office
 - Costar
 - Rightmove
 - Invest Lincs
 - Loop Net
- 7.22 Savills confirm that the following platforms were used:
- Savills
 - Pip
 - Agents Insight
 - Loop Net
 - Costar
 - Completely Retail
- 7.23 Savills have provided a list of companies that were 'target marketed' following a GAP analysis, this list is extensive including but not limited to; ASDA and Tesco Express, Go Outdoors, TJ

Hughes, Peacocks, MaxiSaver, Amber Taverns, Valiant Pubs and the Salvation Army . The report states that these companies rejected the property 'on the basis of the location, which is perceived as secondary to the prime pitch of Market Place and Hall Place'.

- 7.24 The Savills letter further states that 'For the duration of the marketing campaign to date, a number of factors presented a challenge and prevented interested parties proceeding. These include, but are not limited to:
- Spalding as a Retail Location.
 - Size - Limited requirements for the size of unit in this location.
 - Limited retailers who will trade from first floor.
 - Availability of other large units within the town - in stronger trading locations.
 - Configuration - The split nature of the properties with them being over ground and first floors meaning most operators could only utilise the upper levels as ancillary.'
- 7.25 Summary:
- The supporting information clearly shows that a scheme of marketing has occurred, and following checks on Rightmove and the Estate Agents website is still occurring. It has to be taken on face value, without any advice to the contrary that the price of the property is adequately reflective of the current market conditions that influence Spalding's primary shopping area.
- 7.26 Also whilst no dates of the actual marketing are made explicit (i.e. dates the property was launched on the market on each platform) an approach was made to Pygott & Crone in June 2023; Savills were instructed during the planning application process on 14th January 2024. This shows that the premises have been given a marketing platform of potentially up to 12 months (with Pygott & Crone and their methodology). Whether this period of time is acceptable to understand whether a market no longer exists for the building to function for town centre uses it is unclear. The supporting information does not draw to this conclusion, it simply highlights that there are continuing difficulties in securing a sale. Members therefore need to be comfortable that the time this property has spent on the market (which is not evidently clear from the lack of detail surrounding dates within the supporting information) would be sufficient to demonstrate that there is no other possibility of a town centre use coming forward.
- 7.27 In terms of what the property is marketed for the sales brochure states in terms of the existing planning use 'The property has an established A1 retail use and A3/A5 hot food and restaurant use' (although the takeaway use is not necessarily correct as there is no evidence in the planning history or submission to demonstrate this). There is therefore some inaccuracy in the description which would have benefitted from being given an up-to-date planning position of the premises in terms of use. There is a concern that the description may deter other town centre uses that function as a Class E use coming forward.
- 7.28 A range of platforms to market the premises has been used, as well as a proactive method of marketing (GAP analysis). The list of platforms given to market the property has ensured a broad audience is sought as regards drawing attention to the availability of the building.
- 7.29 The main concerns therefore in relation to the marketing relate to the duration (on the market, it is not clear how long the property was advertised for sale on each platform) and that the description of how the premises can be used in planning terms (for A Class uses some of which are inaccurate (i.e. A5)) may have deterred appropriate town centre uses that are now defined as E-Class uses from coming forward for the property, and , therefore excluding a plethora of uses that have now become town centre uses under Class E (that were not previously classed under an A use).
- 7.30 On this basis there are clear flaws in the marketing approach and in so it is far from conclusive.
- 7.31 Principle of Development
- 7.32 SELLP Policy 1 sets out the overarching spatial strategy for the district. The application site is located within the Sub Regional centre of Spalding, of these areas the policy states:

Within the settlement boundaries of Boston and Spalding (as shown on the Inset Maps) development will be permitted that supports their roles as Sub Regional Centres

- 7.33 SELLP Policy 24 sets out the retail hierarchy for the district, of sub regional centres it states:
- The town centres of Boston and Spalding (as defined by the Town Centre Boundaries) will 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 (Classes A1-A5, B1, D1 and D2) and residential development. The provision of markets and other appropriate initiatives that would enhance the vitality and viability of Boston and Spalding town centres will be supported.*
- 7.34 In general principle terms then a mixed-use development located within the Town Centre boundary is considered acceptable. However, it needs to be acknowledged that the application site is not only located within the Town Centre boundary but also within the primary shopping area. Noting that:
- The town centres of Boston and Spalding (as defined by the Town Centre Boundaries) will be the locational focus for the development of town centre uses it is also important to consider the strategic purpose of the Primary Shopping Area. As an expansion on the importance of retail uses within primary shopping areas (under Paragraph 6.2.6) the policy justification it states:*
- 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.*
- 7.35 On this basis it is considered that the applicant needs to demonstrate that the impacts from the non-retail uses proposed would not negatively impact on the local amenity and activity within a centre. There are already a number of non-retail related uses in this location including cafes, restaurants, assembly and leisure (South Holland Centre), the loss of this building to non-retail uses within a primary shopping area then has potential to further demise Spalding town centre as a retail and town centre uses-led destination. It should also be noted that the uses proposed are predominantly not only non-retail, but also non-town centre (with the exception of the cafe and soft play), as per the NPPF definition (Annexe 2, NPPF December 2023).
- 7.36 It is also of note, and part of previous discussions at Planning Committee that Policy 24 states that *planning permission will be granted for retail, food and drink outlets, financial and professional services, leisure and tourist-related uses (Classes A1-A5, B1, D1 and D2) and residential development*. Members discussed this wording in that the policy stresses that uses falling under this class 'will be granted'.
- 7.37 In response to this it is material to note that the Use Classes Order was subject to changes that came into force in 2020, with a new E-Class and F-Class introduced. The policy is therefore outdated in this regard. Many D1 uses (*with the exception of Clinics, health centres, creches, day nurseries, day centre* (which became E) formed a new F1 use class. D2 uses are now categorised as F2 uses. The re-categorisation of the Use Classes Order resulted in the notion that E-Class uses are now specified town centre uses. The NPPF (December, 2023) definition of town centre uses (contained Appendix 2) may be material in some instances, when considering whether certain non-E uses are appropriate in a town centre. It is of note that community centres and places of worship are omitted from the NPPF definition and so not classes as a town centre use.
- 7.38 Loss of Retail Uses/Vitality and Viability
- 7.39 NPPF Paragraph 90b is relevant to this assessment. It states that:
- Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should - define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre*

7.40 SELLP Policy 25 is concerned with supporting the vitality and viability of Boston and Spalding Town Centres. The policy states that:

Boston and Spalding town centres will continue to be the primary destinations for retail, entertainment, markets and events while their rich environmental qualities can be promoted, enhanced and appreciated

7.41 The application site is located within the Primary Shopping Area and Town Centre boundary for Spalding. The building is located on the periphery of the primary shopping frontage. Its location within the primary shopping area, proximity to the Market Place and the loss of other units to non-retail uses are key to considering any future uses that may be appropriate for this building.

7.42 Also key to this assessment are the changes to the Town and Country Planning (Use Classes) Order (1987) that came into effect in 2021, following the publication of the local plan. Retail Uses 'Class -A1' were grouped under a new class (Class E) along with some other former A uses, such as cafes and professional services/offices. The class also absorbed other uses such as D2 uses, which relate to indoor recreation.

7.43 This proposal then at ground floor seeks to implement a cafe and soft play area, these uses are E uses that do not require planning permission. However, the applicant also proposes 248sqm of F2 use (meeting place for local use/youth club) and this is located on the Double Street frontage. The food bank which takes up floor space both at ground and first floor relates to a Sui Generis use.

7.44 On first floor the applicant proposes a Furniture Store and bookstore that are ancillary to the place of worship. The predominant use of this floor is the Church Hall, associated cafe and seating area with stage, and this relates to Class F1, also the food bank operates a Sui Generis use on part of this floor. When considered as a whole the mix of uses proposed the proposal leans towards a holistic community use, with the only exceptions to this being the cafe and soft play located at ground.

7.45 Within Annexe 2 of the NPPF (Glossary) main town centre uses are described. This is a more accurate definition of uses that are suitable within the Town Centre given that Local Plan pre-dates the changes made to the UCO that came into effect in 2021, the NPPF latest revision is December 2023. The uses that are identified as 'main town centre uses' are as follows:

Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

7.46 The building has historically been a key retail anchor store in Spalding and whilst the cafe and soft play area are commensurate uses (all class E), the loss of 248sqm of prime retail floor space at ground floor to form a youth club is not succinct with retail policies; it is important to note that this element of the ground floor has its own shop entrance that fronts Double Street. Furthermore, whilst on first floor the church, where there are more flexible allowances for alternative uses, is also not considered to be a 'main town centre use' by the NPPF definition. This space along with ancillary cafeteria and bookshop, stage and cafe takes up most of this floor, along with the food bank. The cumulative impact of the loss of this floor to F1 and half of the ground floor to F2, undermines the overarching retail (or class E use) of the former department store. In effect then the predominate town centre use of the building would be lost over completely (except for cafe and soft play) to F1, F2 uses and unclassified uses.

7.47 This is exacerbated by the fact that the building is located within the primary shopping area, that the Broad Street entrance abuts the primary shopping frontage and that already there are a number of units that no longer provide a retail related use within the immediate area. The applicant has not shown that other buildings within the wider town centre (outside of the primary shopping area) do not exist, that may have a lesser impact upon Town centre vitality/viability and may be suitable for these community purposes. SELLP Policy 24 within the justification states that:

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.

7.48 The applicant has not demonstrated that the proposal would not negatively impact activity within the town centre. The loss then of this key building predominantly to non-retail and non-town centre uses is not acceptable and would likely undermine the vitality and viability of Spalding town centre, further removing the strategic aim of the primary shopping area as *the locational focus for the development of town centre uses.*

7.49 On this basis the proposal is considered to be contrary to SELLP Policies 24 and 25.

7.50 Permitted development fall-back

7.51 The topic of permitted development was actively discussed when this application went before Planning Committee previously. Class MA (of Schedule 2, Part 3) allows for the following:

Development consisting of a change of use of a building and any land within its curtilage from a use falling within Class E (commercial, business and service) of Schedule 2 to the Use Classes Order to a use falling within Class C3 (dwellinghouses) of Schedule 1 to that Order.

7.52 Development not permitted by this class is set out under paragraph 'b', *unless the use of the building fell within one or more of the classes specified in subparagraph (2) for a continuous period of at least 2 years prior to the date of the application for prior approval*; Specified under sub-paragraph 2 of this part, sets out the specified classes:

(a) the following classes of the Schedule as it had effect before 1st September 2020

(i) Class A1 (shops);

(ii) Class A2 (financial and professional services);

(iii) Class A3 (food and drink);

(iv) Class B1 (business);

(v) Class D1(a) (non-residential institutions - medical or health services);

(vi) Class D1(b) (non-residential institutions - creche, day nursery or day centre);

(vii) Class D2(e) (assembly and leisure - indoor and outdoor sports), other than use as an indoor swimming pool or skating rink;

(b) on or after 1st September 2020, Class E (commercial, business and service) of Schedule 2.

7.53 This building is confirmed to have a Class E under the use classes order 1987 and therefore does not appear to benefit from permitted development rights under the above class. Furthermore paragraph 'd' sets out that development is not permitted if *land covered by, or within the curtilage of, the building (ii) is or forms part of a listed building or land within its curtilage*; The building is attached to a Grade II listed building, and so, there is potential to consider this building as being within its curtilage (at least in part).

7.54 Therefore, on the basis of the above it is considered that the permitted development fall backs are not material to this assessment (as they do not exist) and therefore should not be used as a weight to off-set the force of town centre policies when applying any balance.

7.55 Community Uses

7.56 SELLP Policy 32 is concerned with Community, Health and Well-being. It states that:

Development shall contribute to the creation of socially cohesive and inclusive communities; reducing health inequalities; and improving the community's health and well-being.

7.57 NPPF Paragraph 96a is also relevant when assessing such community uses. It states that:

Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:

a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other - for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages

- 7.58 The proposal is to alter the predominant use of the building for community led uses. This includes 248sqm at ground floor and a place of worship along with ancillary cafe and seating are at first floor.
- 7.59 The food bank would also contribute to providing a community centred approach to the development. These uses are commensurate with the requirements set out under SELLP Policy 32 and NPPF Paragraph 96a. It should be noted that the existing business already operates in Spalding and the proposal in part involves the relocation of certain community uses rather than the creation of new ones.
- 7.60 On the basis of providing community benefits the proposal would accord with SELLP Policy 32 as well as NPPF Paragraph 96a.
- 7.61 Heritage & Design
- 7.62 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.
- 7.63 The National Planning Policy Framework (NPPF) (December 2023) 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.
- 7.64 Section 16 of the National Planning Policy Framework (December 2023) 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".
- 7.65 SELLP Policy 29 is concerned with the Historic Environment. It states that distinctive elements of the South East Lincolnshire historic environment will be conserved and, where appropriate, enhanced. The policy discusses impacts upon listed buildings, and their setting, Conservation Areas as well as archaeology, parks and gardens, enabling development amongst other things.
- 7.66 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 proposals 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'.
- 7.67 Policy 3 sets out the 'Design of new development' in part it 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".
- 7.68 The building is not listed, and only internal changes are proposed, no alterations are proposed to the external envelope of the building. Any advertising would also need to be considered under a separate consent application.
The Conservation Officer has been consulted and has no objections to the proposal. The application is accompanied by a Planning Statement that includes under Section 7 a Heritage Statement, this accords with the applicant's requirements set out under NPPF Paragraph 200.
- 7.69 Given that no external works are proposed and that the internal works represent limited changes to the existing layout it is considered that the impact upon the character (aesthetic) of the building and the wider Conservation Area and primary shopping area are considered acceptable. Furthermore given the limited external effects of the proposal the impact upon the setting of nearby listed buildings is also considered acceptable.

- 7.70 On this basis the proposal would accord with SELLP Policies 2, 3 & 29.
- 7.71 Environmental Issues (Including Amenity)
- 7.72 SELLP Policy 2 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.
- 7.73 SELLP Policy 30 is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important considerations when considering proposals for planning.
- 7.74 NPPF Paragraph 135f 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
- 7.75 Under Paragraph 7.20 of the Planning Statement the applicant states "The centre is intended to be open on the evenings of Thursday-Saturday between the hours of 21:30-02:00 to provide a safe place for vulnerable people, helping relieve the pressure from emergency services in the town responding to distress calls/incidents. The charity has volunteer 'Street Pastors' looking out for people who need assistance in getting home or to a place of refuge until able to get home safely."
- 7.76 The applicant following the last Committee has provided following request a management plan. The plan is discussed above. The management plan shows that the building would operate in a way that would mitigate impacts upon neighbouring business. It is considered that any permission should be conditioned to operate in accordance with this management plan.
- 7.77 On this basis sufficient information has been received regarding the proposed use and the noise environment to overcome previous concerns in this regard, and, it is considered that the expansion on the way the business would operate contained within the management plan is appropriate to mitigate impacts as regards noise. The proposal at this stage therefore accords SELLP Policies 2 and 30.
- 7.78 Highway Safety & Parking
- 7.79 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.
- 7.80 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.
The proposal represents a change of use of a town centre building. It is considered that given the location and accessibility to the town by multi transport modes as well as the network of car parks in existence that the proposal represents a suitable location. Moreover, LCC Highways have been consulted and have no objections both in terms of sustainability or highway safety.
- 7.81 On this basis the proposal is considered to accord with SELLP Policies 2 and 3.
- 7.82 Planning Balance
- 7.83 The proposed development would bring back into use an existing vacant building. It would also bring into the town centre a broad range of community uses. It is located so as to capitalise upon the existing town centre transport infrastructure and would encourage additional visitors considering that at present the building is not being used.
- 7.84 Supporting information in relation to the marketing that has taken place has been received. The marketing shows that no offers have been made on the property despite the broad range of

platforms used to promote the sale of the building. Whether this period of time on the market, the marketing methodology and price of the premises is sufficient to demonstrate that a town centre use of the building is no longer required is for members to consider.

- 7.85 However, it must be noted that the marketing information is not clear in terms of the dates (and so duration) this property has spent on the market across each platform. Also of note is that the 'Planning' use description within the brochure identifies the building as benefiting from A Classes. This is not accurate and is likely to have excluded other appropriate town centre uses that fall under an E-Class (that were not previously considered as an A-Class under the superseded UCO). The marketing can therefore not be considered fully robust or reliable, due to these omissions and inaccuracies.
- 7.86 Running parallel to this consideration is the amount of material weight that should be attributed to the marketing information. In an email dated 12th June to the Head of Joint Planning, the planning agent considered that:
- 7.87 *Given the policy position I would suggest that no weight is attributed to the marketing information as its not required to be demonstrated that the building has been actively marketed. However, what was submitted in the attached email clearly shows that marketing had taken place since June 2023 which is now 12 months of marketing with no interest in the building for retail.*
- 7.88 Members need to consider whether or not to apply material weight to the marketing information, and if so how much to attach and lastly whether they agree with the officers assessment of it. As previously highlighted within this report, the **South East Lincolnshire Local Plan does not require proposals such as this to justify themselves through a marketing process, and so, any weight given to the marketing is a matter of judgement to be applied by the decision maker, which is in this instance the Planning Committee.** The applicant (through their agent) considered in their email that no weight should be attached, but at the same time draws reference to it. Officers suggest that the Planning Committee should therefore apply the weight they consider to be appropriate.
- 7.89 Notwithstanding the supporting Marketing information officers consider that the applicant has not demonstrated that the impact upon activity within a centre following the loss of this building to non-retail and non-town centre uses is acceptable. There is already a high number of non-retail related uses in the immediate area and the wider primary shopping area and the loss of this building to predominantly a community use would have negative impacts for Spalding town centre as a retail and town centre-led destination. Nor has it been established whether other buildings located centrally but outside the primary shopping area do not exist that could accommodate this proposal and be in a more appropriate location that would not undermine the retail or town centre functions of the primary shopping area. On this basis the proposal is contrary to SELLP Policies 24 and 25.
- 7.90 **Conclusion**
- 7.91 The application site relates to a key building located within the primary shopping area. It is considered that the loss of retail and town centre related uses of this building, coupled with the previous losses of nearby buildings to non-retail uses would undermine the vitality and viability of Spalding town centre as a retail and town centre uses-led destination, and, instead replacing key town centre floor space with community uses. The application also does not sufficiently justify why a location within the primary shopping area (which strategically focuses on town centre uses) is required for the proposed community uses.
- 7.92 The application site is considered to be poorly-placed for non-retail and non-town centre uses particularly given its location within the Primary Shopping Area, located in close proximity to Spalding Market Place, there is already a number other non-retail uses located within close proximity and, it is considered that if approved the proposal would have a negative impact on the activity within a centre undermining Spalding's primary shopping area as a retail and town centre uses-led destination and, therefore, is recommended for refusal.
- 7.93 **Additional Considerations**

7.94 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.

7.95 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.

8.0 **RECOMMENDATIONS**

- 8.1 The application site is located within the Primary Shopping Area of Spalding which is a locational focus for town centre uses. The proposal which is predominantly for both non-retail and non-town centre related uses would undermine the primary shopping area as a retail & town centre-led destination having a negative impact upon the vitality and viability of Spalding Primary shopping area.
- 8.2 There are already a number of units in close proximity within the primary shopping area that function for non-retail purposes and the loss of this key building, not only for non-retail purposes but also non-town centre purposes would likely lead to changes in activity in the way the primary shopping area is used, weakening its focus to provide town centre uses, as required by Policies 24 and 25 of the South East Lincolnshire Local Plan 2019. Furthermore, there is no evidence that other buildings that could accommodate such a development within the town centre, but outside of the primary shopping area, do not exist. Nor is there sufficient justification as to why the proposed use requires a location within the primary shopping area.
- 8.3 The application site is considered to be poorly-placed for non-retail and non-town centre uses particularly given its location within the Primary Shopping Area, located in close proximity to Spalding Market Place and the primary shopping frontage, there is already a number other non-retail uses located within close proximity and, it is considered that if approved the proposal would have a negative impact on the activity within the town centre undermining Spalding's primary shopping area as a retail and town centre-led destination and, therefore, is recommended for refusal.

8.4 On this basis the proposal is considered to be contrary to SELLP Policies 24 and 25

9.0 CONDITIONS

1. The application site is located within the Primary Shopping Area of Spalding which is a locational focus for town centre uses. The proposal which is predominantly for both non-retail and non-town centre related uses would undermine the primary shopping area as a retail & town centre-led destination having a negative impact upon the vitality and viability of Spalding Primary shopping area.

There are already a number of units in close proximity within the primary shopping area that function for non-retail purposes and the loss of this key building, not only for non-retail purposes but also non-town centre purposes would likely lead to changes in activity in the way the primary shopping area is used, weakening its focus to provide town centre uses, as required by policies 24 and 25 of the South East Lincolnshire Local Plan 2019. Furthermore, there is no evidence that other buildings that could accommodate such a development within the town centre, but outside of the primary shopping area, do not exist. Nor is there sufficient justification as to why the proposed use requires a location within the primary shopping area.

The application site is considered to be poorly-placed for non-retail and non-town centre uses particularly given its location within the Primary Shopping Area, located in close proximity to Spalding Market Place and the primary shopping frontage, there is already a number other non-retail uses located within close proximity and, it is considered that if approved the proposal would have a negative impact on the activity within the town centre undermining Spalding's primary shopping area as a retail and town centre-led destination and, therefore, is recommended for refusal.

On this basis the proposal is considered to be contrary to SELLP Policies 24 and 25.

2. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. Furthermore, matters of concern with the application have been identified and discussed with the Applicant. However, the issues are so fundamental to the proposal that it has not been possible to negotiate a satisfactory solution and due to the harm, which has been clearly identified within the reason(s) for the refusal, approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

3. The determined plans are:

DCK/LIGHT/23/1905
DCK/LIGHT/23/1905
HSS-AP-020/23 Rev A
HSS-AP/030/23 Rev A
HSS-AP/101/23
Site Location Plan
Management Plan by the Lighthouse Church

Background papers:- Planning Application Working File

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Appendices attached to this report:

Appendix A PLAN A

MapThat Scale Print Title

