

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H11-0095-22      **Applicant:** Domino's Pizza UK & Ireland Ltd.

**Proposal:** Change of use from bank (Class E) to hot food takeaway (Sui Generis); associated extraction/plant equipment and external alterations.

**Location:** 6 West Street Long Sutton Spalding

**Terminal Date:** 29th March 2022

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

|            |                                                    |
|------------|----------------------------------------------------|
| 01         | Spatial Strategy                                   |
| 02         | Development Management                             |
| 03         | Design of New Development                          |
| 04         | Approach to Flood Risk                             |
| 24         | The Retail Hierarchy                               |
| 26         | Primary Shopping Frontages                         |
| 29         | The Historic Environment                           |
| 30         | Pollution                                          |
| 31         | Climate Change and Renewable and Low Carbon Energy |
| 32         | Community, Health and Well-being                   |
| 36         | Vehicle and Cycle Parking                          |
| APPENDIX 6 | Parking Standards                                  |

#### National Guidance

#### National Planning Policy Framework 2021

Section 2. Achieving sustainable development.  
Section 3. Plan making.  
Section 4. Decision making.  
Section 6. Building a strong competitive economy.  
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 places.  
Section 14. Meeting the challenge of climate change, flooding and coastal change.  
Section 15. Conserving and enhancing the natural environment.  
Section 16. Conserving and enhancing the historic environment.

### Representations:

|                | Object | Support | No Obj. | Comments |
|----------------|--------|---------|---------|----------|
| PARISH COUNCIL | 0      | 0       | 0       | 0        |

|                         |   |   |   |   |
|-------------------------|---|---|---|---|
| WARD MEMBER             | 0 | 0 | 0 | 0 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SHDC INTERNAL           | 0 | 0 | 0 | 1 |
| RESIDENTS               | 5 | 0 | 0 | 0 |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

Full planning permission is sought for a change of use from bank (Class E) to hot food takeaway (Sui Generis), including associated extraction/plant equipment and external alterations. Opening hours would be 11am to 11pm 7 days a week.

### **Site Description**

The building is a former bank (Lloyds TSB) of contemporary design (circa 1960's) with a flat roof. Parking is located at the rear.

A betting shop (S & D Bookmakers Ltd) is located to the east beyond a driveway, plus residential above. Terraced housing is situated to the west beyond a driveway associated with the property. Flats (Spurgeon House) are located directly opposite and Long Sutton Baptist Church to the south-west.

Nos 39 and 43 (grade II listed) are located some 25 metres to the south-east on the opposite side of West Street. St Mary's Church (grade I listed) is situated some 100 metres to the east.

### **Policies/Constraints**

Inside Long Sutton Town Centre and the Primary Shopping Area as defined in the South East Lincolnshire Local Plan (SELLP), 2019.

The site is inside Long Sutton Conservation Area

### **Recent Planning History**

H11-1704-06 - Adv Consent - Erection of new signage - Consent 6 February 2007.

H11-0978-12 - Adv Consent - Proposed signage - Consent 17 January 2013.

H11-1075-15 - Full - Installation of ATM machine - Granted 4 January 2016.

H11-1076-15 - Adv Consent - Proposed signage - Consent 4 January 2016.

### **Consultation Responses**

#### **Long Sutton Parish Council**

No response

#### **LCC Highways/SUDs**

Does not wish to restrict the grant of permission.

#### SHDC Conservation Officer

No conservation based objections.

#### Public

Objections received (summarised):

- Noise/disturbance from visitors, cars and delivery services, particularly during anti-social hours;
- Litter;
- Attract rodents;
- Odour;
- Encourage vandalism and anti-social behaviour;
- Extra traffic;
- Parking issues. Parking along West Street at a premium at the moment for residents. Would exacerbate situation;
- Block drives;
- Result in residents having to park in dark areas;
- No need for additional take-aways in area. Already 6 takeaways, 4 cafes, 4 public houses (serving food), along with a McDonald and Benny's diner. Plus Domino Pizza takeaways doing home deliveries;
- Increase obesity, which is linked to cancer;
- Devaluation of property.

#### **Planning Considerations**

The main issues are:

- Policy/Principle;
- Character/appearance and heritage impacts;
- The likely impact upon the amenity of nearby residents;
- Other material considerations, including flood risk and refuse disposal.

#### Principle

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 Long Sutton 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 Long Sutton, 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.

Policy 24 (The Retail Hierarchy) of the South East Lincolnshire Local Plan, 2019 (SELLP) states that in the District Centre of Holbeach and the Local Centres of Crowland, Donington, Kirton, Long Sutton and Sutton Bridge, town centre uses will be permitted where they, on their own or cumulatively with other permitted development, will generate no significant harm upon the vitality and viability of that centre or any other centre within the hierarchy, particularly with regard to their role for food shopping.

New development within the Sub-Regional, District and Local Centres will be expected to: 1. be physically integrated and have good pedestrian and cycle links, with the rest of the centre; 2. generate a reasonable level of footfall and be open to the public; 3. contribute to an appropriate balance of uses; 4. achieve an acceptable level of amenity, including provision of refuse and recycling facilities; and 5. achieve an acceptable level of highway access, parking and servicing."

Supporting text indicates 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."

Policy 26 (Primary Shopping Frontages) of the SELLP states that A1 units in the Primary Shopping Frontages should be retained predominantly for retail use unless it can be demonstrated that the loss of an A1 unit, by change of use or redevelopment, will 1. make a positive contribution to the vitality and viability of the Primary Shopping Frontage; 2. not result in a loss of A1 floor space or frontage of a scale that undermines the retail function of the frontage; and 3. allow upper floors to be effectively used.

In this case, the proposal would not result in the loss of an A1 (shops) unit since the premises were formerly a bank. They have been redundant for some time and the proposal would result in them being brought back into active use. The site is in a suitable and sustainable location on the edge of the town centre/primary shopping area.

Concern has been raised on grounds that there are already too many takeaways in the town. However, there is nothing specific within the SELLP on what constitutes an over-proliferation. Moreover, the takeaways are reasonably well separated. 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 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 Long Sutton town centre, or any other centre within the hierarchy.

Ministerial advice indicates that considerations of commercial competition are not a material planning consideration and therefore carry no weight. It is not the role of the planning system to inhibit commercial competition.

The proposal therefore satisfactorily complies with Policies 1, 24 and 26 on locational grounds.

#### Character/appearance and heritage issues

The site is inside Long Sutton Conservation Area. Nos 39 and 43 (grade II listed) are located some 25 metres to the south-east on the opposite side of West Street. St Mary's Church (grade I listed) is situated some 100 metres to the east.

Policy 2 of the South East Lincolnshire Local Plan, 2019 indicates that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met in relation to, inter alia, size, scale and impact on the amenity, character and appearance of the area. Policy 3 indicates that it should create a sense of space and respect the character of the area within which it is situated.

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 199 of the Framework, 2021 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.

The external alterations proposed include the replacement of the extant silver aluminium and glass shopfront with new dark grey aluminium and glass design which is not alien to this late C20th property, and somewhat similar to that which it replaces. A new 400mm stallriser would be included at the base of the shopfront. The entrance door would be relocated from the middle of the shopfront to the right-hand side of the shopfront (when viewing the site from West Street). There would be a new door with a single white vertical pull bar. The existing disabled ramp and handrails would be retained. At the side and rear of the building, there would be a number of minor alterations including the installation of new vents. It is considered that the proposed alterations would not harm the character or appearance of Long Sutton Conservation Area or the setting of nearby listed buildings.

The proposal is therefore compliant with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 in this respect.

#### Amenity

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. Policy 30 indicates that development proposals will not be permitted where, taking into account of any mitigation measures, they would lead to unacceptable adverse impacts upon the

health and safety of the public, the amenities of the area, or the natural, historic or built environment by way of such factors as air quality, noise, light levels and land quality and condition.

A betting shop (S & D Bookmakers Ltd) is located to the east beyond a driveway, plus residential above. Terraced housing is situated to the west beyond a driveway associated with the property. Flats (Spurgeon House) are located directly opposite and Long Sutton Baptist Church to the south-west.

The application is accompanied by a noise assessment which indicates that mechanical services plant (equipment) would be installed within the premises. It would include a supply air system fan and oven extract system fan plus external air conditioning and cold room condenser units at the rear. Based on results of the noise survey and acoustic calculations using plant manufacturer's data, noise from the plant (with the specified noise reduction treatment fitted) is calculated to comply with noise limits set with reference to British Standard BS4142:2014. The noise reduction treatments comprise high performance atmosphere side duct silencers (attenuators) to the supply air system fan and oven extract system fan.

The report also considers vibration from the proposed plant. Location of the plant is not directly or otherwise structurally linked to any neighbouring buildings, therefore there will be no plant vibration transfer to noise sensitive (residential) properties. Notwithstanding this, it recommends the plant be installed using proprietary vibration isolators, as good practice and to minimise any vibration from the plant to the development itself.

The nature of the use is such that there would be a regular flow of customers and associated vehicles to and from the premises, including during the evenings until 11pm. However, the building is within a town centre location where there is a mixture of commercial and residential uses and where ambient noise levels are generally higher due to increased activity, traffic, etc. It is accepted that residents who live in a town centre location cannot reasonably expect the same living conditions and low levels of noise as those living in predominantly residential areas. Whilst it is recognised that immediate residents may suffer some additional noise/disturbance, it would not be significantly greater than that presently experienced and not such as to justify refusal.

In terms of possible odour, the proposal includes a new oven extract duct rising vertically on the rear elevation to terminate 1 metre above roof eaves level.

Environmental Protection have been consulted and have raised no objections subject to mitigating conditions relating to noise levels from plant/machinery and openings hours being no later than specified.

Regarding refuse disposal, the application indicates that large 1100ltr commercial bins would be provided at the rear. Litter bins should also be made available for use on the premises. This arrangement should ensure that there is no significant issues with vermin. If issues were to arise they can be addressed under separate legislation.

### Highway Issues

In conjunction with Policy 36 of SELLP 2019, Appendix 6 sets out the minimum standards for parking provision based upon the use class.

Parking facilities are available at the rear for delivery drivers and staff. 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. Moreover, there is parking available on the highway in the vicinity. LCC Highways have been consulted and do not wish to restrict the grant of permission on highway safety grounds.

The proposal satisfactorily accords with Policies 2, 3 of the South East Lincolnshire Local Plan, 2019 in terms of highway safety. Although there is some conflict with Policy 36 it is outweighed by other benefits in favour of the scheme given the site's sustainable location within the town centre.

### Flood Risk/Drainage

The site is within Flood Zone 3 on the Environment Agency Maps, but within an area of no hazard within the South East Lincolnshire Strategic Flood Risk Assessment. Moreover, the proposal seeks permission to change the use of the building from one 'Less Vulnerable' use to another (Class E

bank to a Sui Generis hot food takeaway). Therefore, the change of use will not increase the risk of any vulnerable uses being subject to flooding.

Foul and surface water would be disposed of to the mains sewer as existing.

### Other matters

Concerns have been raised on grounds of possible vandalism/anti-social behaviour. However, there is no firm evidence to substantiate this. If it were to arise it could be addressed under separate legislation.

Obesity issues have also been raised. Whilst this is a material planning consideration it is not considered to be such as to refuse this application given that there is no policy within the Local Plan directly relating to this.

### Planning Balance

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 proposal would bring a vacant non-retail unit back into use and the existing uses within the town centre would remain reasonably well balanced. It would not materially harm the viability/vitality of the town centre, or the character or appearance of Long Sutton Conservation Area/setting of nearby listed buildings. The amenity of nearby residents would not be affected to a significantly greater degree than at present, subject to mitigating conditions. The proposal therefore generally accords with Policies 1, 2, 3, 24, 26, 29 and 30 of the South East Lincolnshire Local Plan, 2019.

Some on-site parking is available, but would mainly be restricted to staff/delivery drivers. However, the site is in a town centre location within an area where public parking facilities are available. Although the proposal is not wholly in accordance with Policy 36 of the SELLP, this matter is outweighed by other factors in favour of the scheme.

### **Conclusion**

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

### **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.