

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0948-24 **Applicant:** Stagecoach Services Ltd

Proposal: Construction of a new concrete slab for a fuel tank, storage containers and walk around bus wash, new office cabins, cycle shed, car, mini bus, double decker parking spaces and ancillary works - Retrospective - approved under H14-0635-24. Modification of Condition 5 to allow 50 buses to operate from the site at any one time

Location: Pinchbeck Industrial Estate Wardentree Park Spalding

Terminal Date: 7th February 2025

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
07	Improving South East Lincolnshire's Employment Land Portfolio
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

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

HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	2	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This application is made under Section 73 of the Town and Country Planning Act 1990, seeking to amend condition 5 of H14-0635-24. This would vary the maximum number of buses which may operate from the site from 35 to 50. This would be achieved via amendments to onsite parking orientation, rather than any significant changes to function of the site or its layout.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. Furthermore, the site is within the Wardentree Lane main employment area outlined in Policy 7. Naturally, this employment area is characterised by large scale commercial activities.

The site itself is located towards the northern extreme of Wardentree Lane, with Blue Gowt Drain and fields to the north of the site. The plot is currently covered in hardstanding and gravel, installed under its previous use as a HGV parking area. Large steel palisade fencing is present.

Relevant History

H14-0002-03 - Full. Use of land for HGV parking. Approved 07/03/03.

H14-0635-24 - Full. Construction of a new concrete slab for a fuel tank, storage containers and walk around bus wash, new office cabins, cycle shed, car, mini bus, double decker parking spaces and ancillary works - Retrospective. Approved 15/10/24.

H14-0947-24 - Condition Compliance. Details of 30-year Habitat Management and Maintenance Plan (Condition 8 of H14-0635-24). Ongoing.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Environmental Protection

Identical comments received twice, first on 03/12/24, then again on 16/12/24

No observations - no comments.

Pinchbeck Parish Council

Support - Appropriate in an industrial location.

Anglian Water

"We have reviewed the submitted documents with the variation of condition and there are no drainage related documents therefore we are unable to make comments on the above application."

Welland and Deepings Internal Drainage Board

"Thank you for your consultation on the above application.

I am pleased to see on the most current plan that the new office portacabins and covered cycle stand are now proposed to be located nine metres away from the brink of the Board's Blue Gowt No 1 Drain and therefore outside of our working maintenance strip.

The Board are currently in informal discussions with both the agent and the consulting drainage engineers to agree the proposed surface water discharge from the site."

Highway and Lead Local Flood Authority

Initial comments received 29/11/24:

Requests additional information:

"A revised Transport Statement is required."

Revised comments received 6/1/25:

No objections - "The proposal is for minor amendments to condition 5 that already has approval under H14-0635-24. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

There is no precise definition of "severe" with regards to NPPF Paragraph 115, which advises that "Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe." Planning Inspector's decisions regarding severity are specific to the locations of each proposal, but have common considerations:

- The highway network is over-capacity, usually for period extending beyond the peak hours
- The level of provision of alternative transport modes
- Whether the level of queuing on the network causes safety issues.

In view of these criteria, the Highways and Lead Local Flood Authority does not consider that this proposal would result in a severe impact with regard to NPPF."

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Evaluation - Section 73

The proposal relates to the variation of Condition 5 of H14-0635-24, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the

Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with Condition 5 being amended.

Planning practice guidance highlights that where less substantial changes are proposed, amending a proposal can occur through 'Amending the conditions attached to the planning permission, including seeking to make minor material amendments'.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and/or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development. Likewise, the red outline provided with the ordnance survey site location plan has not been altered and matches that of the initial submission.

In the case of *R (Vue Entertainment Limited) v City of York Council*, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the effect of the change will be significant". Taking all of the above into account, the Local Planning Authority are content that the proposed amendments can be considered under a variation application, via a Section 73 application.

Evaluation - Relevant Policies

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as a sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

Where a proposal involves the extension, creation or loss of an existing employment site, Policy 1 is supported by Policy 7. As discussed above, the site is within the Wardentree Lane Main

Employment Area outlined within Policy 7. Policy 7 restricts development within this area to Classes B1, B2 and B8 (although since the time of publication, B1 use class now falls within class E).

Policy 7 states that "The South East Lincolnshire authorities will, in principle, support proposals which assist in the delivery of economic prosperity". Naturally, the proposal will achieve this goal via the expansion of an existing commercial venture, and the reoccupation of a currently vacant plot. This will ensure the long term viability of the Warentree Lane employment area, while also providing/ maintaining jobs within the District.

The principle of development was established under H14-0635-24. The proposed alterations do not raise any issues regarding this assessment of the principle of development. Therefore, this point does not need to be revisited here and the principle of development is considered sound.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The proposal represents a significant increase in the intensity of the use; however, not to such an extent as to be harmful to the character or appearance of the area. As an industrial area, the wider locale already features comparable uses at a comparable intensity. As such, the proposed increase in buses operating from the site would have no significant character impacts.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Due to the industrial character of the area, the proposal is unlikely to exacerbate any concerns regarding amenity impacts.

The alteration would result in parking spaces being moved closer to the proposed fuel tank. While the ordinary function of the site would of course bring vehicles in close proximity to this unit throughout the day, the storage of vehicles for extended periods of time does increase the probability of some form of accident occurring. That being said, it is considered that this could be accommodated for via the continued imposition of Conditions 6 and 7 of H14-0635-24 relating to safety precautions for the installation and operation of the fuel tank.

As detailed above, the scale and design of the proposal is considered to have no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".

In respect of highway matters, 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. 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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards. As the proposed use is Sui Generis, there are no defined parking requirements within Appendix 6. Instead, need is assessed on a case by case basis.

30 car parking spaces are provided. This significantly outstrips the number of buses proposed. That being said, as the site is within the defined settlement boundaries, it is easily accessible via sustainable transport; thereby reducing the tangible parking demand. While buses do not pass via the site itself, there are several bus stops within a short walk from the site, ensuring workers can utilise public transport. Within the inset maps of the SELLP, a cycle route runs near to the site, allowing workers to access the site via this means. It was stated within the transport assessment that the majority of employees live locally, and as such, there is a higher likelihood of workers utilising these sustainable transport methods. In any event, it is unlikely that all 50 buses, thus necessitating 50 parked cars, would be in use at any one time. As such, the private parking on the site is considered acceptable.

As with vehicle parking standards, need for cycle storage for such developments is to be assessed on a case-by-case basis. A shelter providing six spaces has been provided. While this is a relatively small provision, given the scale of the site, it is considered adequate cycle parking space has been provided. If necessary, bicycles can be stored within the portacabins or elsewhere on the plot.

A limited but sufficient space has been left around the site peripheries in order to enable the movement of vehicles throughout the site. Therefore, despite the significant increase in scale, the site could still properly function, assuming the one way system was maintained. While the room provided to manoeuvre is minimal, it should be sufficient given the constraints of the site.

The Highway Authority, upon receipt of an updated transport statement, have raised no objection to the proposal. They have stated that the impact of the proposal would not be severe and, as such, would accord with the provisions of the NPPF.

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized

biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

As a result of the changes proposed to the site, the positioning of the BNG treatments will be moved. That being said, from the details submitted, the necessary net gains will still be met regardless. In any event, the imposition of the standard BNG condition shall ensure the requisite net gain.

Taking the above into account it is considered that given the details submitted, and those required by suitably worded condition, the proposal is acceptable with regards to biodiversity net gain.

Economic Sustainability

Paragraph 85 of the NPPF states: "Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development". As the proposal would expand an existing business, it is considered that, in line with this paragraph, weight should be given in favour of the proposal.

Conditions

Excluding the relevant Biodiversity Net Gain condition, which is imposed by default, eight conditions were applied to the previous application. Assessing the requirement to reimpose these conditions on the application, the following is considered.

Condition 1 relates to approved plans, and shall be reimposed but updated to reflect altered plans. This is consistent with the requirements of the PPG and NPPF which require development to be carried out in accordance with plans submitted to the LPA.

Condition 2 relates to materials, and shall also be reimposed to ensure the visual integrity of the site.

Condition 3 related to the completion of the proposal in accordance with the details submitted within the flood risk assessment. To ensure that the proposal is safe for its lifetime, and is consistent with the provisions of the NPPF and SELLP, this condition should be reimposed.

Condition 4 relates to surface water drainage. As no details have been submitted to discharge this condition, and the proposal has not removed the need for this condition, it is to be reimposed here.

Condition 5 related to the number of buses to operate from the site. This crux of this application was the variation of this condition, which has been assessed above. It is recommended that this condition is reimposed with a 50-bus limit.

Conditions 6 and 7 both related to the details of the fuel tank, its construction, maintenance and how the fuel will be delivered. The proposal has not fundamentally changed the concerns raised within the previous proposal relating to this point. While there have been difficulties relating to contact the Petroleum Authority, as they are the statutory body concerning these matters, it would be inappropriate to approve details without their consent.

Condition 8, relating to a Habitat Management Plan, can be removed as the details are broadly covered by the statutory biodiversity condition.

All informative conditions are to be carried over.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the SELLP and the provisions of the NPPF when viewed as a whole. The increase in the number of buses operating from the site is not judged to result in a severe impact upon the local highway network.

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

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 7, 28, 30, 31, 33 and 36 of the SELLP, as well as Sections 6, 9, 12, 14, and 15 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.