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TOWN AND COUNTRY PLANNING ACT 1990

FULL

Reference:	H16-0079-25	**Date of Decision:**	8th August 2025
Applicant:	SME Corporation (2) Limited & Roadside Real Estate Roadside Real Estate Plc 115b Innovation Drive Milton Park Abingdon OX14 4RZ		
Location:	Land To The Southwest Of The A151 & A16 Fulney Lane North Spalding		
Description:	Erection of two single storey drive thru units with associated car parking, cycle parking, landscaping and access		

South Holland District Council, in pursuance of the provisions of the Town and Country Planning Act 1990 (as amended), hereby give notice that permission has been GRANTED (or equivalent) for the development referred to above, subject to the following condition(s):

1 The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

- 19497 THPW 00 XX DR A 1010 Rev P02 - Location Plan
- 19497 SFW XX XX DR L 1001 Rev P05 - Landscape Plan
- 19497 THPW 00 XX DR A 1013 Rev P05 - Proposed Overall Site Plan
- 19497 THPW 00 XX DR A 1014 Rev P05 - Proposed Site Plan

- 19497 THPW 00 XX DR A 1015 Rev P02 - Proposed Unit 1 GA Plan
- 19497 THPW 00 XX DR A 1016 Rev P02 - Proposed Unit 1 Roof Plan
- 19497 THPW 00 XX DR A 1017 Rev P02 - Proposed Unit 1 Elevations
- 19497 THPW 00 XX DR A 1018 Rev P02 - Proposed Unit 2 GA Plan
- 19497 THPW 00 XX DR A 1019 Rev P02 - Proposed Unit 2 Elevations
- 19497 THPW 00 XX DR A 1020 Rev P02 - Proposed Unit 2 Roof Plan
- 19497 THPW 00 XX DR A 1021 Rev P02 - Proposed Substation Details
- 19497 THPW 00 XX DR A 1022 Rev P01 - Proposed EV Equipment Details
- 7476-HJCE-XX-XX-DR-C-SK1 Rev P01 - Offsite Foul Drain G.A
- 7476-HJCE-XX-00-RP-D-3000.v1 - Drainage Statement & Flood Risk Assessment
- September 2024 - Rev C - Biodiversity Net Gain Plan
- Odour Management Plan - Burger King

Reason: For the avoidance of doubt and in the interests of proper planning.

3 Prior to the commencement of development hereby permitted, a detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke, shall be submitted to and approved in writing by the Local Planning Authority. The construction process shall be carried out in accordance with the scheme so approved. It shall also include a method statement, detailing how construction traffic, site personnel vehicles, materials deliveries and site accommodation will be managed to safeguard highway safety, free passage along Fulney Lane North and residential amenity.

Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4 No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include measures for trial trenching in addition to the following:

1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).
2. A methodology and timetable of site investigation and recording
3. Provision for site analysis
4. Provision for publication and dissemination of analysis and records
5. Provision for archive deposition
6. Nomination of a competent person/organisation to undertake the work
7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.

The archaeological site work shall only be undertaken in accordance with the approved written scheme.

The written scheme of archaeological investigation should be prepared in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority.

Reason: To ensure the preparation and implementation of an appropriate scheme of

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archaeological mitigation in accordance with Section 16 of the National Planning Policy Framework, December 2024. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

5 The applicant shall notify the Lincolnshire County Council Historic Environment Department in writing of the intention to commence at least fourteen days before the start of archaeological work required in connection with Condition 4 above in order to facilitate adequate monitoring arrangements.

Reason: To ensure satisfactory archaeological investigation and retrieval of archaeological finds in accordance with Section 16 of the National Planning Policy Framework, December 2024.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

6 A copy of the final report required in connection with Condition 4 above shall be submitted to the Local Planning Authority and the Lincolnshire Historic Environment Record, within three months of the work being carried out.

The material and paper archive required as part of the written scheme of investigation shall be deposited with an appropriate archive in accordance with guidelines published in The Lincolnshire Archaeological Handbook.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with Section 16 of the National Planning Policy Framework, December 2024.
This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.

7 The development hereby permitted shall not commence until a biodiversity gain plan has been submitted to and approved in writing, by the Local Planning Authority. The development shall then be carried out in accordance with the details as approved.

Reason: To comply with Schedule 7A of the Town and Country Planning Act (1990, as amended).

This Condition is imposed in accordance with Schedule 7A of the Town and Country Planning Act (1990, as amended) and Policy 28 of the South East Lincolnshire Local Plan, 2019.

8 No deliveries shall be taken at or despatched from the site outside the hours of 07:00 and 23:00 Mondays to Saturdays, and 08:00 - 20:00 Sundays and Bank Holidays.

Reason: In the interests of the amenity of local residents.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

9 In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the

Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA. No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

10 Prior to the first use of the development, a detailed flood warning and evacuation plan shall be submitted to and approved in writing by the Local Planning Authority, to ensure that the users can be kept safe should breach occur. The approved flood warning and evacuation plan shall be available and implemented at all times for the lifetime of the development.

Reason: To ensure that the development does not result in risk of flooding that would cause harm.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

11 The development hereby permitted shall be carried out in accordance with the measures set out in the Flood Risk Assessment (7476-HJCE-XX-00-RP-D-3000.v1) forming part of this planning application. In particular, the following measures shall be fully implemented before the property is first brought into use:

- The finished floor level (FFL) of the approved buildings shall be set at a minimum of 300mm above the existing ground levels. Unit 1 will have a FFL of 4.800m AOD and Unit 2 a FFL of 4.550m AOD.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

12 Before any development beyond oversite is commenced, full details of the proposed means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full before there are any flows into the receiving systems.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and Section 14 of the National Planning Policy Framework, December 2024.

13 Prior to the first use of the development, details of the proposed litter bins within the site shall be submitted to and approved in writing by the Local Planning Authority. The litter bins shall thereafter be installed in accordance with the approved details prior to the first use of the development.

Reason: In the interests of ensuring satisfactory waste storage arrangements.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

14 No part of the development hereby permitted shall be used before the works to improve the public highway (by means of a connecting footway from the highway boundary around the access with Fulney Lane North to include a tactile crossing point over to the other side of the road) have been certified complete by the Local Planning Authority.

Reason: To ensure the provision of safe and adequate means of access to the permitted development.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

Notes:

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, and by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

The highway improvement works referred to in Condition 14 are required to be carried out by means of a legal agreement between the landowner and the County Council, as the Local Highway Authority.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

Your attention is drawn to the letter from South Holland Internal Drainage Board dated 25 February 2025. You are advised of the need to comply with the requirements of the Drainage Board, which are covered by their own Bye-laws. You are further advised that any future amendments to this application and/or compliance with Conditions must also respect those Bye-laws. Please contact the Drainage Board directly for further information.

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of 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.

The planning authority, for the purposes of determining whether to approve a Biodiversity Gain Plan if one is required in respect of this permission would be South Holland District Council.

This permission will require the submission and approval of a Biodiversity Gain Plan and Habitat Management and Monitoring Plan (HMMP before development is begun). This is over and above the information submitted and considered as part of this application, and will be required before development is begun, because none of the statutory exemptions or transitional arrangements listed below are considered to apply.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at
https://www.gov.uk/guidance/biodiversity-net-gain.

For clarity, the Local Planning Authority do not consider that any of the exemptions apply in this case. As such, the development hereby permitted will be subject to the biodiversity gain condition.

Irreplaceable habitat

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If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning

Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.