DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0177-25**	**Applicant:**	**Dukesmead Industries Limited**
Proposal:	Details of scheme of landscaping, tree planting, existing and proposed site levels, proposed floor levels, hard surfaced areas and garden/amenity areas (Conditions 3 and 5 of H16-0723-24)		
Location:	Plot 3 Lincolnshire Gateway Business Park Spalding		
Terminal Date:	17th April 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
28	The Natural Environment

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
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

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This is a discharge of conditions planning conditions application providing details of the scheme of landscaping, tree planting, existing and proposed site levels, proposed floor levels, hard surfaced areas and garden/amenity areas (Conditions 3 and 5 of H16-0723-24).

Site Description

The application site comprises approximately 0.4 hectares of land to the south of Spalding. The site comprises a vacant plot of land that is being developed (under permission H16-0395-23). The site is part of the wider Lincolnshire Gateway Business Park site granted outline planning permission in

2014 under permission reference H16-0009- 14 and is situated to the west of the existing Applegreen petrol filling station and services built under that permission. The site itself is bound to the north and west by Barrier Bank Road, to the east by the access road (Goodison Road) into the wider Business Park site and to the south by undeveloped land.

Immediately adjacent to this is two new restaurant and takeaway units (KFC and Taco Bell) developed under permission reference H16-0172-21. The site is located within Flood Zone 1 is not within a Conservation Area and there are no listed buildings in close proximity to the site

History

H16-0723-24 - Erection of 2 single storey restaurant/cafe units with associated drive thru's (sui generis) and 1 single storey restaurant/cafe unit (Use Class E), 42 car parking spaces, access & landscaping - Approved under H16-0395-23. Modification of Condition 2 to allow amendments to previously approved plans and Modification of Conditions 3, 5, 8 & 9 to allow amendments to the wording relating to landscaping & tree planting, site & floor levels, external lighting & CCTV system. Approved 22-10-24

Consultation Responses

Ecologist

No comments received

Planning Considerations

Condition 3 - Landscaping

The condition requires:
Before the commencement of any phase of the development (as identified on drawing FRO-DUK-003-P-20) hereby permitted beyond oversite, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for that particular phase indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of that particular phase of development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

The applicant has proved the following:

-Landscaping Planting Plan SY24-390-LPP-24-01 Rev A
-Bio Diversity Net Gains Assessment

Given the proposal granted the landscaping plan is as expected with much of the area taken over by hard landscaping for the parking and drive thru. There are some trees shown to be planted and a small, grassed area to the north. This scheme is considered acceptable.

The BNG net gain assessment shows that there would be a loss of 1.2 habitat units. However, given that the previous application relates to a variation of H16-0395-23, it did not require a mandatory net gain. Furthermore, the permission granted was always likely to result in a high percentage of hard landscape and whilst this represents an over all loss of BNG on site, on balance this is acceptable. Moreover, the use of a landscaping condition to ensure a net gain, on the basis of the terms of the permission, is unlikely to be attainable.
Condition 3 is hereby discharged.

Condition 5 - Site Levels

The Condition requires:

Before the commencement of any phase of the development (as identified on drawing FRO-DUK-003-P-20) hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas for that phase, including any

mitigation measures arising as a consequence (for example increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

The applicant has provided:

-Site Sections Plan BBSC-BSP-XX-XX-D-C-0220 Rev P01

The site levels shown on plan are considered acceptable and would not result in giving rise to unacceptable character or amenity impacts. Condition 5 is hereby discharged.

Conclusion

Conditions 3 and 5 of H16-0723-24 are hereby discharged.

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.