DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0395-23**	**Applicant:**	**Dukesmead Industries Ltd.**
Proposal:	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		
Location:	Plot 3 Lincolnshire Gateway Business Park Spalding		
Terminal Date:	3rd July 2023		

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
08	Prestige Employment Sites
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

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

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	1	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	1	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for the 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).

It is proposed that the existing access off the A1175 would be utilised. This access road also serves the office building to the north of the application site and the existing petrol filling station, pub and other takeaway units to the south.

42no vehicle parking spaces (including 3no disabled spaces) and 14no cycle spaces would be provided in total within the site.

The buildings would be constructed from a mixture of metal and wooden cladding with aluminium windows and doors.

The proposed opening hours are 6am to 11pm Monday to Sunday. Deliveries are proposed to take place outside of opening house but the times have not been specified.

Site Description

The application site comprises approximately 0.4 hectares of land to the south of Spalding. The site comprises a vacant plot of undeveloped land. The site was included within 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

H16-0009-14 - Proposed business park, hotel, public house/restaurant, conference and function centre, petrol filling station, restaurant/cafe with ancillary retail together with associated landscaping, access, highways, parking, drainage, utilities and services and infrastructure works - Approved 10 October 2014

H16-1081-14 - Details of detailed design for the arrangements for the construction management plan (Condition 6 of H16-0009-14) - Approved 20 October 2016

H16-0157-15 - Details of engineering drawings for construction of the access to the B1173 (condition 21 of H16-0009-14) - Approved 27 October 2016

Consultation Responses

Cllr D R Ashby

Objection as entry to the site would increase and it's a dangerous stretch of road for anyone walking or biking from Spalding or turning right into the site. the speed limit should be reduced to allow safer access for all including bicycles.

Environment Agency

The development is partially sited in 'danger to some', therefore the proposal comes under cell E4 of the local flood risk standing advice.

South Holland Internal Drainage Board

Surface water is proposed to discharge via an existing surface water drainage system to a watercourse therefore the proposal will require consent under Byelaw 3.

Anglian Water

The site layout should take this into account and accommodate Anglian Water assets within either prospectively adoptable highways or public open space. If this is not practicable then the sewers will need to be diverted at the developers cost. If the developer wishes to connect to Anglian Waters sewerage network they should serve notice under Section 106 of the Water Industry Act 1991.

Crime Prevention Design Advisor

No objections.

Pedals c/o R J Smith

Objection as the application makes no proposals for safe access to the site by bicycle.

Environmental Protection

No comments.

Local Highway and Lead Local Flood Authority

No objections as the proposed units will occupy a currently undeveloped plot within the southern part of the previously consented Spalding Gateway business park development. All necessary external, enabling highway improvement works have already been completed.

Planning Considerations
- Principle
- Impact upon character and appearance of the area
- Residential amenity
- Highways/parking

Principle

As indicated in paragraph 47 of the National Planning Policy Framework, 2021, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The site is located outside any defined settlement limit and is identified on the Local Plan Policies Map as an 'Existing Mixed Use Employment Site'. It is therefore within an area regarded as the open countryside therefore it would need to comply with Policy 1 of the South East Lincolnshire Local Plan, 2019.

Policy 1 of the Local Plan (Spatial Strategy) states that development in the countryside will only be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

Policy 7 states that Established Employment Sites should be protected for new B1, B2 or B8

development/re-development because of their important role in the economy. Any non-B development, such as that proposed, will only be supported where it is ancillary to the effective functioning of the Established Employment Site. The proposed development would be small in scale compared to the existing employment premises and could be used by employees. It would also generate employment for 30 full-time staff. It is therefore not considered that there is significant conflict with the policy position on employment set out in the Local Plan. Furthermore the principle of mixed-use development at the application site has been accepted following the granting of planning permission in 2014 for a mixed-use employment development and part of the site has already been developed out under this permission. To date B class uses have been delivered on the Lincolnshire Gateway site by virtue of the office development on Parcel B2 of the planning permission.

Furthermore, given the nature of the proposal and its likely source of custom, it is not considered necessary for the proposal to have passed a sequential test. The Transport Assessment submitted with the application indicates that a significant number of trips will be drawn from existing movements already on the local highway network and those visiting the wider Gateway Business Park. The assessment in the TS was accepted based on an assumption that 10% of the trips will be new to the site. It is therefore not considered that the proposed development would have the effect of drawing people away from the town centre as a significant number of the visits to the premises would form part of a journey that would already take place along the B1173 and B1175. The nature of the proposed development means that it is important that it is located in a prominent position such as the application site.

Overall, the proposal is considered to be acceptable in principle.

Impact upon character and appearance of the area

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area; are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting; and 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 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.

The mass, scale and design of the scheme is in keeping with the existing adjacent land uses. The proposed site layout is considered satisfactory and the units are proportionate to the plot size. The units would be single storey and will sit comfortably within the surrounding context provided by existing built development. Given there is no strong built character in the immediate street the propose siting and use of external materials are considered acceptable.

As such the development is not considered to result in detrimental to the character of the area and is therefore acceptable in terms of its design and siting and therefore accords with Policies 2 and 3 in the SELLP, 2019 and Section 12 in the NPPF.

Residential amenity

Paragraph 130 of National Planning Policy Framework (2021) amongst other matters seeks places with a high standard of amenity for existing and future users. Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

There are no residential neighbours in the immediate vicinity therefore there are no neighbouring amenity concerns.

SHDC Environmental Protection have not raised any objections in terms of noise/disturbance to existing businesses in the immediate vicinity. Furthermore there are already late night traffic movements to/from the petrol filling station to the east of the site.

As such the proposal would accord with Paragraph 130 of National Planning Policy Framework (2021) and Policies 2 and 3 of South East Lincolnshire Local Plan (2019).

Parking/Highway safety

Concerns have been raised by Pedals and a local Councillor with regards to inadequate cycle access to the site. The concerns are noted, however, LCC Highways Authority has not raised any objections to the proposal with regards to highway safety. It has advised that as the proposed units will occupy a currently undeveloped plot within the southern part of the previously consented Spalding Gateway business park development. All necessary external, enabling highway improvement works have already been completed.

The developers of the business park have elected to keep all the internal estate road network as private roads, so the developer of the site will not need to seek approval from the highway authority for the connection of the new roadways within the proposed development to those existing estate roads. There are already businesses operating from other units on the park and so it is presumed that suitable arrangements are available for the collection of commercial waste. All necessary infrastructure is already installed within the business park for the management of surface water run-off, which includes the use of a large lagoon for the storage of attenuated storm water prior to discharge into a suitable watercourse. As such there are no highway safety concerns.

With regards to parking Policy 36 and Appendix 6 of the South East Lincolnshire Local Plan requires 1 parking space per 5sq gross internal floor space of dining area for restaurants/cafes. It does not have standards for fast food takeaways therefore these are assessed on a site-by-site basis. 42no vehicle parking spaces (including 3no disabled spaces) and 14no cycle spaces would be provided in total within the site. The proposal would create a total of 280 sqm of dining space across all three units which means approximately 56 spaces are required. However, given the nature of the proposed use with 2no units having drive-thru's the proposed 42no paces across all three units can on balance be accepted.

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.

It is considered that the proposed restaurants can be incorporated into the wider Lincolnshire Gateway Business Park site without materially impacting the amenity and character of the surrounding area, or delivery of the wider employment site.

The buildings are considered to be appropriate to the locality in terms of design and would not materially harm the character/appearance of the area. The amenity of nearby residents would not be affected in terms of noise/disturbance taking into consideration existing traffic flow to/from the site.

LCC Highways raises no objection on highway safety grounds.

Conclusion

Taking the above into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 7, 8, 28, 30, 31, 36 and Appendix 6 of the South East Lincolnshire Local Plan (2019), as well as Sections 6, 11, 12, 14 and 15 of the National Planning Policy Framework (2021). The recommendation is therefore for a delegated approval.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

RECOMMENDATION

The application can be approved under delegated powers.

The application was considered by Chairman's Panel on 30/06/2022 who accepted the decision could be delegated. .