DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0879-23**	**Applicant:**	**Triton Property Fund**
Proposal:	Proposed Extension of Springfields Outlet Shopping & Leisure, to comprise demolition of the existing NFU Mutual offices and provision of comparison retail floorspace (Class A1), flexible retail and/or coffee shops/restaurants floorspace (Class A1/A3), access, revised car parking, landscaping and associated works approved under H16-0104-20. Modification of Conditions 2, 6, 7, 11, 12 & 13 relating to approved plans, archaeological investigation, notification to LCC historic environment, existing & proposed site levels, terrorism prevention measures and contamination including site investigation & remediation strategy.		
Location:	Springfields Outlet Centre Camel Gate Spalding		
Terminal Date:	12th January 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
24	The Retail Hierarchy
25	Supporting the Vitality and Viability of Boston and Spalding Town Centres
27	Additional Retail Provision
29	The Historic Environment
30	Pollution
33	Delivering a More Sustainable Transport Network

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 7 - Ensuring the vitality of town centres
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0

ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	2
OTHER STATUTORY BODIES	0	0	0	9
RESIDENTS	0	0	2	1

CASE OFFICER ASSESSMENT

Proposal

This is an application under section 73 of the Town and Country Planning Act 1990 (as amended). The applicant seeks to vary condition 2 which relates to the approved plans condition attached to planning permission H16-0104-20.

The proposed phasing was set out on the (previously approved) site Masterplan Phasing Plan (SPFDS-WBA-SI-ZZ-DR-A-90_102 P5 - Site Master Plan Phasing 1). The applicant is seeking to replace this plan with drawing number 'SPFDS-WBA-SI-ZZ-DR-A-90_102 - P6 Site Masterplan Phasing. '

The revised phasing as proposed, seeks to allow for the following stages:

-Phase 1 - Construction of additional staff parking spaces (2 spaces). The spaces would be constructed as shown on the approved layout as an extension to the eastern side of the existing staff car parking area. car park and would entail provision of kerb edging, ground preparation works and tarmac.

-The Phase 2 - demolition of Dromedary Lodge

-Phase 3 - The demolition of the existing NFU building on the Phase 3 extension site and site preparation works

-Phase 4 - main works to build out Phase 3 extension, alter main car park, construct additional parking and implement amends to garden area to the north of the Phase 3 extension.

Alongside the proposal to vary the approved plans is an application to vary the trigger points secured by the section 106 agreement. The nature of the obligations are not subject to change, but rather the point (in the development) where payment/provision of those obligations are required.

In addition to amending the approved plans the applicant also seeks to amend the working of certain pre-commencement conditions, to allow for phases 1 & 2 to begin. Condition 6 relates to archaeological investigation and the applicant seeks that this condition is time phased prior to 'phases 3 & 4'. Likewise, condition 7 which requires the applicant to notify LCC Historic Environment in relation to the commencement of development, this is sought to change that requirement for

information prior to the commencement of phases 3 & 4. A similar approach is taken to conditions 11 (existing and proposed site and floor levels), 12 (terrorism prevention measures), 13 (Contamination).

The applicant also seeks to vary to conditions 9 (Construction Management Plan) and 10 (mud on public highway) and has provided supporting information in respect of these topics.

Site Description

Springfields Outlet Shopping and Leisure is located at the north-east of Spalding. The application site is bounded to the south by the A151/Holbeach Road, while to the west the site adjoins the Coronation Channel. The eastern site boundary extends along the edge of the existing outlet centre but also includes a strip of land situated between the A16 and Festival Gardens, which is currently occupied by wind turbines associated with the outlet centre. The northern part of the site adjoins the Marsh Lane employment site and the A16 to the east. South west of the site are residential properties.

Included within the application site boundary is the existing South Car Park, NFU Mutual offices and its associated car park, part of the Festival Gardens, the Springfields Garden Centre Car Park, Springfields Events and Conference Centre and associated land and a strip of land running adjacent to the A16 to the east. It also includes Camel Gate and land to the west which includes the Springfields Main Customer Car Park, an existing bus layby and drop-off and land at the Grade II Listed Fulney Hall.

History

H16-0104-20 - Proposed Extension of Springfields Outlet Shopping & Leisure, to comprise demolition of the existing NFU Mutual offices and provision of comparison retail floorspace (Class A1), flexible retail and/or coffee shops/restaurants floorspace (Class A1/A3), access, revised car parking, landscaping and associated works.

H16-0579-19 - Proposed external alterations to Fens Centre and provision of car parking (approved July 2019). Approved 04-02-21

H16-0290-19 - Proposed relocation of the existing National Farmers Union Mutual Offices (Class B1a) (approved May 2019)
H16-0645-17 - Proposed Family Entertainment Centre, including change of use of Play barn from Class D1 (leisure) to Class A3 (cafe and restaurant) use and associated works (approved September 2017)

H16-0401-06 - Alterations to Springfields Gardens including additional retail floorspace, hotel, creation of new gardens and revised car parking (approved December 2006)

H16-0361-02 - Redevelopment to include leisure, horticultural, food & drink, retail; craft workshop & related uses; associated landscaping; provision of car parking and highway works (Outline application H16/0569/98) (approved September 2002)

H16-0569-98 - Redev. to inc. leisure/retail/ horticultural/food & drink etc with assoc. parking, highways works and landscaping (allowed by Secretary of State February 2001)

Consultation Responses

Anglian Water
This application for Variation of Condition(s) is not relevant to Anglian Water - we have no comments to make thereon. Please note Anglian Water will only comment on drainage/surface water

South Holland IDB
Thank you for consulting us on planning application H16-0879-23. Having reviewed the documents to support this S73 application, I can confirm that we uphold our comments made on 09/03/2020 (reference H16-0104-20). The Board has no further comments to make.

Environment Agency
We did not recommend the conditions (2, 6, 7, 11, 12 & 13) referred to on application H16-0879-23 and therefore have no comment to make on this application

Highways & Suds
No objection: The change to the wording of the Conditions of H16-0104-20 being proposed in this Application would not have potential to cause an unacceptable impact upon highway safety or a severe residual cumulative impact upon the operation of the local highway network. Accordingly, the highway authority does not wish to object to the grant of Consent for this Application.

Boston Borough Council
No objections

Fenland District Council
No observations to make

Peterborough City Council
No objections

Lincolnshire Bat Group
Thank you for referring this to Lincolnshire Bat Group for comment. We would strongly re commend that bat surveys be carried out on any building for demolition

Historic England
Historic England provides advice when our engagement can add most value. In this case we are not offering advice. This should not be interpreted as comment on the merits of the application.

Designing Out Crime Officer
Lincolnshire Police do not have any objections to this application.

Conservation Officer
I do not wish to raise any objections from a built heritage perspective. However, I note that in the applicant's statement, they assert that they have had positive feedback from the LCC Historic Places Team regarding the proposed amendments to conditions 6 & 7 (archaeological investigation). I cannot see that proof of this feedback has been supplied along with the submission. Therefore, I support and defer to the LCC Historic Places Team's forthcoming response to this application

Licencing Team
The Licensing Team would advise that where any proposals are made that include licensable activities then a licence would be required under the Licensing Act 2003. Please contact the Licensing Team as necessary.

Cadent - Plant Protection Team
No objection

Environmental Protection
No comments

Representations
A representation has been received stating that the pedestrian accesses across Camel Gate needs addressing as it is presently unsafe.

Planning Considerations

Determining Development Proposals (Legislative and Policy Framework)

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Scope of Section 73 Application

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.

A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect.

As a section 73 application cannot be used to vary the time limit for implementation, this condition must remain unchanged from the original permission. If the original permission was subject to a planning obligation then this may need to be the subject of a deed of variation.

Assessment

The application seeks to amend the proposed phasing plan as set out on the approved site Masterplan Phasing Plan (SPFDS-WBA-SI-ZZ-DR-A-90_102 P5 - Site Master Plan Phasing 1). The intention of the applicant is to facilitate the implementation of this scheme through the construction of the small expansion of the staff car park; phase 1, And so the previously approved works to extend the staff car park are brought forward.

Phase 2 is for the demolition of Dromedary Lodge (again previously approved). The site preparation works to the previously approved extension to Springfields as well as demolition of the NFU buildings would take place at phase 3, and building works would begin at phase 4. Running concurrent to this is an application to vary the trigger points for contributions captured by the s106.

The principle of development is already established on the site and the proposed works sought under this application have already been approved. Under this application the phasing of these works is to be re-organised as well as the trigger points for payment/provision of planning obligations.

The following issues are therefore relevant to this assessment:

-Planning Obligations
-The impact upon planning conditions by the rephasing of the scheme.

- Construction Management Plan, (including) mud on highway
- Archaeological Investigation
- Contamination
- Counter Terrorism
- Site Levels

Planning Obligations

The legal test for planning obligations are set out under section 122 of the Community Infrastructure Levy Regulations 2010 (as amended). They are reaffirmed under paragraph 57 of the National Planning Policy Framework (December, 2023), which states:

Planning obligations must only be sought where they meet all of the following tests:

a) necessary to make the development acceptable in planning terms;
b) directly related to the development; and

c) fairly and reasonably related in scale and kind to the development

Policy 5 of the SELLP considers meeting physical and service needs of an area, to make proposals that would otherwise have an unacceptable impact, acceptable in planning terms. Local Policy 6 of the SELLP is concerned with developer contributions it states that "Developments of 11 or more dwellings, or which have a combined gross floorspace of more than 1,000 sqm, or non-residential development of 1,000sqm gross floorspace or more will be expected to mitigate their impacts upon infrastructure, services and the environment to ensure that such developments are acceptable in planning terms."

The policy states that developer contributions amongst other things can relate to, affordable housing, transport infrastructure, education facilities, health facilities.

Planning obligations have already been captured on this site for this development. This application is subject to a Deed of Variation to 'move back' the point at which the developer is liable to meet those obligations. The obligations therefore (given the are themselves are unchanged in scope and nature) would still meet with the legal and policy tests.

Captured contributions.

Planning application H16-0104-20 was approved following the signing of a section 106 agreement which captured the following contributions:

-The Green Land is bound by a confirmatory S106; and
-The owners have paid the Town Centre Improvements Contribution (£200,000 commuted sum)

Schedule 3 of the S106 ensured that the above two obligations prevented the implementation of planning permission.

Deed of Variation

The applicant has sought to vary the agreed (and signed) s106 and this runs concurrent to this planning application. The applicant seeks to vary the time when the obligations are met, in this instance the applicant seeks to insert that prior to phases 3 and 4 would be the point where the applicant needs to fulfil their obligations, namely the green land bound by confirmatory S106 and the town centre contribution. The amount and nature of the obligation would not change.

Summary

It is therefore considered given that the obligations which would still be captured before the 'main' construction works begin would be unaltered in their amount and nature, and only work relating to the formulation of two staff parking spaces and the demolition of Dromedary Lodge would take place prior to capturing those obligations then the changes sought to the trigger points are considered acceptable.

The S106 is prohibitive to the applicant in that development cannot commence until obligations are met. The DOV in this instance essentially works as an enabling tool, allowing for earlier phases to commence, building in flexibility to the scheme, which at the same time retains that the previously agreed obligations are met prior to the main scope of works taking place.

The impact upon planning conditions by the rephasing of the scheme.

The changes would result in having an effect upon the time phasing of conditions, these are discussed below:

Construction Management Plan, (including mud on highway)

The applicant seeks to bring forward the formulation of the addition staff parking spaces and name it phase 1. The applicant has provided the following:

-Proposed Car Park Amendments 31882-HYD-XX-XX-DR-C-4000 P01
-Construction Phase Plan (Phase 1)

The highway authority has been consulted and have stated that "The change to the wording of the

Conditions of H16-0104-20 being proposed in this Application would not have potential to cause an unacceptable impact upon highway safety or a severe residual cumulative impact upon the operation of the local highway network. Accordingly, the highway authority does not wish to object to the grant of Consent for this Application".

The proposed cars parking plan then will be approved and construction will be carried out in accordance with its details. The construction Phase Plan for Phase 1 will also make up part of the approved documents then is also considered acceptable. Conditions 9 and 10 then attached to H16-0104-20 will be amended requiring 'site wide' details prior to the commencement of phases, 2, 3 and 4. The requirement for the construction management scheme to be agreed at stage 2 is so the effects of demolition of Dromedary Lodge can be mitigated.

Archaeological Investigation

Policy 29 of the South East Lincolnshire Local Plan is concerned with the Historic Environment. Part C which relates to Archaeology and Schedule Monuments is especially relevant. It sets out 5 policy points, they are:

1. Proposals that affect archaeological remains, whether known or potential, designated or non-designated, should take every reasonable step to protect and, where possible, enhance their significance.

2. Planning applications for such development should be accompanied by an appropriate and proportionate assessment to understand the potential for and significance of remains, and the impact of development upon them.

3. If initial assessment does not provide sufficient information, developers will be required to undertake field evaluation in advance of determination of the application. This may include a range of techniques for both intrusive and non-intrusive evaluation, as appropriate to the site.

4. Wherever possible and appropriate, mitigation strategies should ensure the preservation of archaeological remains in-situ. Where this is either not possible or not desirable, provision must be made for preservation by record according to an agreed written scheme of investigation submitted by the developer, undertaken by a suitably qualified person, and approved by the Local Planning Authority.

5. Any work undertaken as part of the planning process must be appropriately archived in a way agreed with the Local Planning Authority.

Conditions 6 & 7 attached to planning application H16-0104-20 relate to archaeology mitigation. Condition 6 preventing development until a written scheme of archaeological investigation had been submitted to and agreed in writing with the LPA. The applicant has requested that these details are provided the beginning of phase 3.

The historic places team have been consulted and have stated that "I am happy to support this amendment". The works to create two additional parking spaces as well as the works of demolition are considered not to have an undermining effect upon the potential for underground findings. Therefore condition 6 will be time phased so the information is provided prior to the commencement of phase 3.

Land Contamination

Policy 30 of the South East Lincolnshire Local Plan is concerned with 'Pollution'. Point 7 is concerned with land contamination it states that "Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon - land quality and condition".
Paragraph 189 of the National Planning Policy Framework (December 2023) also deals with land contamination. It states that "Planning policies and decisions should ensure that:

a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
b) after remediation, as a minimum, land should not be capable of being determined as

contaminated land under Part IIA of the Environmental Protection Act 1990; and
c) adequate site investigation information, prepared by a competent person, is available to inform these assessments."
Planning application H16-0104-20 was approved subject to a condition (C13) that prior to any development a site investigation, remediation strategy as well as verification reports should be submitted to the LPA for agreement. This condition is still extant.

The applicant has provided a Phase 1 Geo-Environmental Assessment (3e consulting engineers). The Environmental Protection Team have reviewed the application and have no comments to make.

The site investigation report whilst not sufficient to remove/discharge this condition highlights that the risk of on-site contamination is low. The applicant has requested that the pre-commencement condition, is time phased to the beginning of phases 3 & 4. Given that the works to provide two additional parking spaces is minor and only shallow kerbing and surfacing works are required and that a construction environmental management plan is also required prior to the demolition of Dromedary Lodge that this approach is acceptable.

Site wide mitigation would still be retained, and the necessary land contamination information would be submitted to and agreed with the LPA prior to any civilisation works or commencement upon the main extension. On this basis (that mitigation is retained) the proposal would accord with policy 30 of the South East Lincolnshire Local Plan as well as paragraph 183 of the National Planning Policy Framework.

Counter Terrorism

Policy 3 of the South East Lincolnshire Local Plan is concerned with the 'Design of New Development'. Point 8 is concerned with crime prevention through Environmental Design. It states that "All development will create distinctive places through the use of high quality and inclusive design and layout and, where appropriate, make innovative use of local traditional styles and materials. 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 - crime prevention and community safety"

Paragraph 135(f) of the National Planning Policy Framework (December 2023) is also relevant. It states that "Planning policies and decisions should ensure that developments - 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience."

Condition 12 of planning permission Planning permission H16-0104-20 required that details of counter terrorism measures, which should be based upon the advice of the designing out crime officer should be submitted to and agreed in writing with the LPA. These detail were required prior to the commencement of development.

The applicant has requested that the LPA consider time phasing this until the beginning of phases 3 & 4. Given that the earlier phases represent minor works in regard to the overall scheme, and not works that would require anti-terrorism mitigation designed- in, then this approach is acceptable. Notwithstanding this the staff car park in any case has an element of access control, requiring permission to enter through the barriers.

It is therefore considered that the proposal would accord with policy 3 of the South East Lincolnshire Local Plan as well as paragraph 130f of the National Planning Policy Framework

Site Levels

Condition 11 of planning permission Planning permission H16-0104-20 requires the developer to provide details of the existing and proposed site levels and proposed floor levels of the buildings and hard surfaced areas. This condition, when considering the phased approach set out by this application relates to phases 3 & 4.

The applicant seeks the condition to be time phased to this stage and given the earlier phases relate to the formulation of two parking spaces and the demolition of a building then this approach is acceptable. The mitigation would still be retained and agreed when necessary within the wider development.

Other Issues

The previously approved planning application was allowed subject to certain restrictive conditions in the use class (and amount) of floor space. These conditions referenced an earlier amendment of The Town and Country Planning (Use Classes) Order 1987. These conditions (3, 4,& 5) have not changed in scope but rather refer to the updated categories associated with Class E that was introduced into the UCO following the previous approval. The change is purely for clarity, having no additional restrictive effect and aligning the scheme with the most recent version of the Use Classes Order.

Conclusion

This permission granted under section 73 will take effect as a new, independent permission to carry out the same development as previously permitted subject the new order of phasing and the rewording of certain conditions. This new permission will sit 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.

This permission approves the following phasing plan 'SPFDS-WBA-SI-ZZ-DR-A-90_102 - P6 Site Masterplan Phasing'. Allowing the development to be carried out in line with the following 4 phases proposed:

-Phase 1 - Construction of additional staff parking spaces (2 spaces).
-Phase 2 - demolition of Dromedary Lodge
-Phase 3 - demolition of the existing NFU building on the Phase 3 extension site and site preparation works
-Phase 4 - main works to build out Phase 3 extension, alter main car park, construct additional parking and implement amends to garden area to the north of the Phase 3 extension.

As well as allowing for the phasing to be reorganised conditions 6, 7, 11, 12 & 13 will be time phased so that information required to mitigate the effects of the scheme are not necessary until the beginning of later phases, allowing phases 1 & 2 to be carried out. These meet with the 6 tests for conditionality set out within both planning law and the National Planning Policy Framework.

Conditions 9 and 10 which relate to the submission of a Construction Management Plan and mud on the highway are approved as far as phase 1. However given that the demolition of Dromedary Lodge would require information as to the method of demolition (which can fairly be contained within the CMP) then this information is required prior to the commencement of phase 2.

Lastly the original permission was subject to planning obligations, this application is the subject of a deed of variation which would not only include the S73 application and the reordering of the phased approach but also push the trigger points for the obligations to be met prior to the commencement of phases 3 & 4.

On the above basis the proposal is considered to be acceptable.

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.