



JWID2297/L001 – Section 73

05th October 2026

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Holland District Council
Planning Department
2 Priory Road
Spalding
PE11 2XE

FAO Catherine Sutton

Dear Sir/Madam

PLANNING REF: H16-0671-26

SECTION 73 APPLICATION TO REMOVE CONDITION 5 ATTACHED TO PLANNING PERMISSION H16-0671-26

UNIT 62, SPRINGFIELDS OUTLET SHOPPING & LEISURE, CAMEL GATE, SPALDING

We write on behalf of UBS Triton in support of an application under Section 73 of the Town and Country Planning Act 1990 to remove Condition 5 attached to planning permission H16-0671-26.

Planning permission H16-0671-26 was granted on 23rd September 2026 for the change of use of the existing public toilets to a Class E unit together with associated external alterations.

The principle of the Class E use has therefore already been accepted by the Council. This application relates solely to the restriction placed on opening hours.

Condition 5

Condition 5 states:

“The use hereby permitted shall not be open to customers except between the hours of 08:00am to 20:00pm, Monday to Sunday.”

The reason given for the condition is “in the interests of the amenity of local residents”, with reference to Policies 2, 3 and 30 of the South East Lincolnshire Local Plan 2019.

The opening hours condition was not identified as a matter requiring resolution during the determination of the original application and the applicant was not asked to agree or propose operating hours. In particular, the Council’s Environmental Health Officer did not object to the application, did not identify any amenity concern and did not recommend that the use should be subject to restricted opening hours.

Planning Policy

The August 2026 National Planning Policy Framework provides, through Policy DM6, that planning conditions should only be attached where they are necessary to make a development acceptable in planning terms, relevant to the development and to planning considerations generally, sufficiently precise to be capable of compliance and enforcement, and reasonable in all other respects.

Policy 30 of the South East Lincolnshire Local Plan relates to pollution and provides that development should not result in unacceptable adverse impacts on, amongst other matters, the amenities of an area through noise or other forms of pollution. The relevant test is therefore whether operation beyond 20:00 hours or indeed before 08:00 hours, would result in an unacceptable amenity impact which requires control through the planning condition.

Residential Amenity

The application unit forms part of the established Springfields Outlet Shopping & Leisure complex and is surrounded by retail, restaurant, leisure, parking and other commercial activity.

There are no residential properties immediately adjoining the unit and the use does not sit within a predominantly residential environment; please see Figure 1 below, which clearly illustrates this. The nearest residential is over 230m away to the west along Crown Drive, or 200m south along Fulney Lane North.

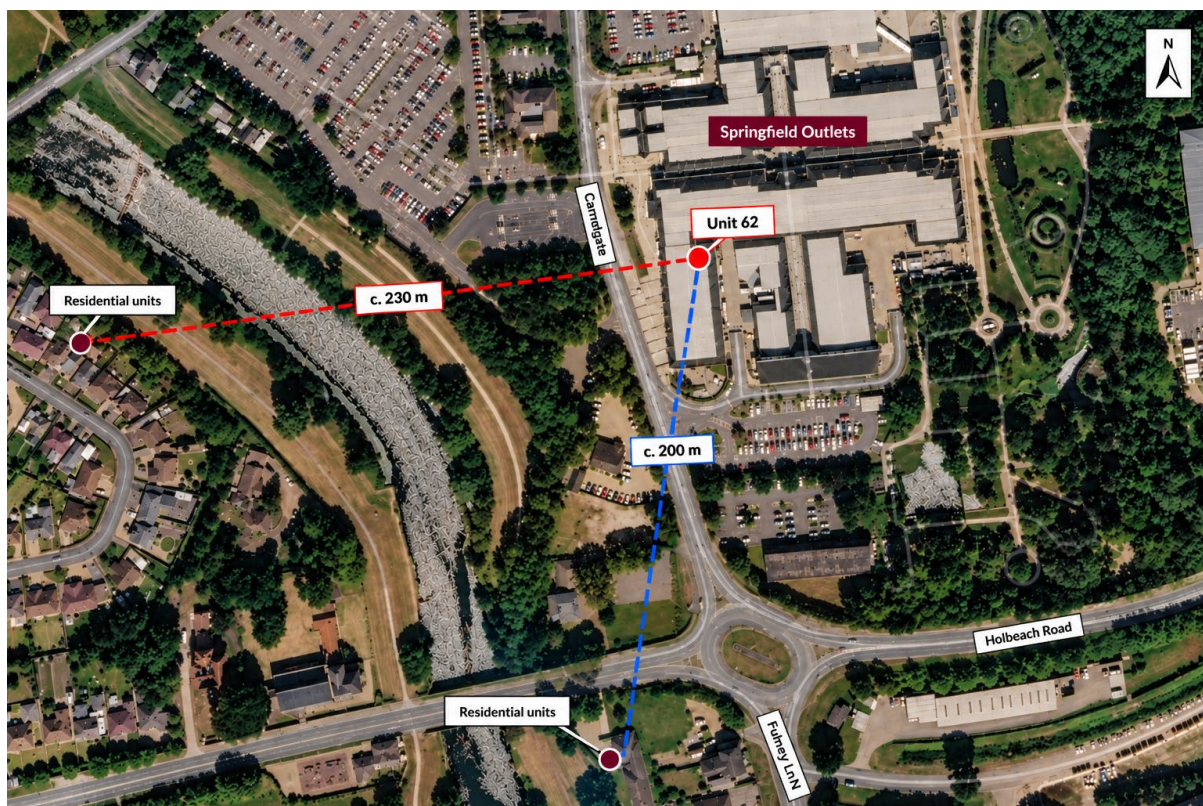


Figure 1: Indicative diagram showing nearest residential.

This context is important when considering the stated reason for Condition 5. The Council's Environmental Health Officer raised no objection and did not identify noise, disturbance or any other impact which would require the proposed Class E use to have restricted opening hours.

There is therefore no technical evidence before the Council suggesting there is a requirement to restrict the opening hours of the unit and therefore not justified need for a planning condition to be imposed.

Existing Evening Activity at Springfields

The hours restriction is also inconsistent with the established operation of the wider Springfields destination. Springfields includes restaurant and leisure uses which operate into the evening and generate customer activity after the shopping centre's core retail hours.

Of particular relevance, PizzaExpress at Springfields is currently advertised as opening daily from 11:30, operating until 21:00 Sunday to Thursday and until 23:00 on Fridays and Saturdays. This provides a clear example of a customer-facing Class E use within the same Springfields complex operating outside the operating hours reflected in the condition imposed upon Unit 62.

The existence of these wider opening hours demonstrates that customer activity at extended times is already an established part of Springfields. Allowing Unit 62 to operate unrestricted in terms of hours, should that be required, would not give rise to material harm to the amenity of the nearest residential properties.

Necessity and Reasonableness of the Condition

The main question is whether the approved development would be unacceptable in planning terms without Condition 5. On the evidence available, there is no basis to conclude that it would.

There are no immediately adjoining residential receptors; Environmental Health raised no objection and sought no restriction on operating hours; and more extensive opening customer-facing uses are already established within Springfields. In those circumstances, the restriction does not respond to an identified or evidenced harm.

The condition also places an unnecessary constraint on the future occupation of the unit. Class E encompasses a range of commercial uses which seek different trading hours depending on the occupier. Restricting the premises limits flexibility of an otherwise accepted commercial use without a demonstrated amenity justification.

Having regard to Policy DM6 of the NPPF, it is therefore considered that Condition 5 is not necessary to make the development acceptable in planning terms and is not reasonable in the particular circumstances of this site. Its removal would not alter the approved use, the physical development or any other condition imposed under H16-0671-26.

Conclusion

The Section 73 application seeks only the removal of Condition 5. The reason for the condition relates to residential amenity, yet there are no nearby residential properties, the Environmental Health Officer raised no objection or requirement for restricted hours, and the wider Springfields complex already accommodates customer-facing Class E uses at more extensive hours.

There is consequently no identified planning justification for the imposition of a condition limiting hours of operation. As such Condition 5 is not considered necessary or reasonable and its removal would accord with the relevant tests for planning conditions set out in national policy.

We respectfully request that the application is approved and Condition 5 is removed from the permission.

We trust the above provides the information necessary to determine the application. Should you require anything further, please do not hesitate to contact the undersigned.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Jeremy Williams', is written over a light grey rectangular background.

**Jeremy Williams BA (Hons) MA MRTPI
Director**

Enc. Section 73 application documents