

Application Number:	2021/0275/FUL
Site Address:	The Moorland Centre, 3 Moorland Way, Lincoln
Target Date:	19th July 2021
Agent Name:	Lichfields
Applicant Name:	LCS Property Limited
Proposal:	Demolition of existing building and redevelopment to provide a foodstore (Use Class E), two retail units (Use Class E) and a drive-thru restaurant (Use Class E), car parking and associated external works including landscaping (Resubmission)

Background - Site Location and Description

The application is for the demolition of the existing Moorland Centre to provide a foodstore (Use Class E), two retail units (Use Class E) and a drive-thru restaurant (Use Class E). The application also proposes alterations to the existing car park, the creation of a new car park and associated external works, including landscaping.

This application is identical to the previous application approved by Members at the Planning Committee of 27th January 2021 (2020/0662/FUL). The application has been re-submitted as the council has received a legal challenge against the previous application, by way of a Judicial Review, brought by Asda Stores Limited (Asda). This legal challenge holds in abeyance the previously approved application. Whilst respectful of the judicial review and not wanting to preempt the outcome the applicant has chosen to re-submit this application for re-consideration by the Local Planning Authority to address some of the concerns raised by this challenge.

This application addresses the grounds for the Judicial Review, namely that an Environmental Impact Assessment (EIA) screening opinion was not undertaken and that the previous committee report did not refer to the Swanholme Lakes Site of Special Scientific Interest (SSSI). These matters will be detailed later within the report.

The submitted plans are almost identical to the previous application save some minor changes outlined in this report, namely revised block and site plans received during the process of the application to illustrate the proposed barriers to the car park. All of the supporting technical documents are also as per the previous submission with the exception of the Planning & Retail Statement and Transport Assessment, which include more up to date data. However, the conclusions of both reports remain the same. An Archaeological Desk Based Assessment and a Biodiversity Net Gain Assessment also form part of this new submission.

The existing Moorland Centre building is vacant, formerly occupied by Downtown, and sits at the north corner of the application site with the existing car park to the south. The proposed foodstore, to be occupied by Aldi, and the two adjoining retail units will also sit towards the north corner of the site, but will have a significantly smaller footprint than the existing building. This will allow a new car park to be provided to the front, south east of the building and the creation of an additional access point from Moorland Way to the north east. The proposed drive-thru restaurant will be located beyond the car park, adjacent to the existing access. It is proposed that the works will be constructed in two phases: phase one comprising the Aldi foodstore, drive-thru restaurant and associated car park and landscaping works. Phase two, the two retail units, will be constructed at a later date once interest is confirmed.

The application site is located to the north west of Tritton Road, accessed via Moorland Way. The 'entry only' access off Moorland Way to the north east of the site also serves the Elite Fish and Chip Shop restaurant, located to the south east of the application site, as well as the M&S Foodhall and Co-operative Travel, located to the west. The exit from the main car park, which can also be used as an access, is located to the north west of the site, adjacent to M&S. The exit returns customers onto Moorland Way, which loops around the rear, north west and side, north east of the application site.

Along Moorland Way are a number of mixed use industrial and commercial units. To the north west of these premises is the railway line, and beyond which is the Swanholme Lakes SSSI. The application site is located approximately 90m from the SSSI, separated by the railway line, built development and Moorland Way.

To the north east, off Moorland Close, is Lindis Retail Park, which accommodates Sainsburys, Matalan, The Food Warehouse (Iceland) and Bargain Buys, along with McDonalds and Dominos Pizza. To the south of the site are properties on Parksgate Avenue with further residential properties on Middlebrook Road, on the opposite side of Tritton Road.

Site History

Reference:_Description	Status	Decision Date:
2020/0662/FUL	Demolition of existing building and redevelopment to provide a foodstore (Use Class E), two retail units (Use Class E) and a drive-thru restaurant (Use Class E), car parking and associated external works including landscaping	Granted Conditionally 28th January 2021

Case Officer Site Visit

Undertaken on 15th April 2021

Policies Referred to

- Policy LP1 A Presumption in Favour of Sustainable Development
- Policy LP2 The Spatial Strategy and Settlement Hierarchy
- Policy LP6 Retail and Town Centres in Central Lincolnshire
- Policy LP13 Accessibility and Transport
- Policy LP14 Managing Water Resources and Flood Risk
- Policy LP16 Development on Land affected by Contamination
- Policy LP21 Biodiversity and Geodiversity
- Policy LP25 The Historic Environment
- Policy LP26 Design and Amenity

National Planning Policy Framework

Issues

- Policy context, principle and sequential test
- Visual amenity
- Trees and landscaping
- Impact on residential amenity and neighbouring uses

Access, parking and highways
 Flood risk and drainage
 Contaminated land
 Archaeology
 Swanholme Lakes SSSI
 EIA Screening Opinion
 Bio-diversity net gain and green infrastructure
 Other matters

Consultations

Consultations were carried out in accordance with the Statement of Community Involvement, adopted January 2018.

Statutory Consultation Responses

Consultee_Comment	
Lincolnshire Police	Comments Received
Anglian Water	Comments Received
Upper Witham, Witham First District & Witham Third District	Comments Received
Dave Walker, Arboricultural Officer, City Council	Comments Received
Environment Agency	Comments Received
Lincoln Civic Trust	Comments Received
Highways & Planning	Comments Received
Ian Wicks, Pollution Control Officer, City Council	Comments Received
Alastair MacIntosh, City Archaeologist, City Council	Comments Received
Natural England	Comments Received

Public Consultation Responses

Name_Address	
Miss M Bebbington	14 Middlebrook Road Lincoln Lincolnshire LN6 7JU

Mrs Vicki Edwards	33 Parksgate Avenue Lincoln Lincolnshire LN6 7HP
Jigsaw Planning on behalf of Asda Stores Limited	PO Box 2844 Glasgow G61 9DG
TPS Transport Consultants Ltd on behalf of Asda Stores Limited	Via email

Consideration

Policy context, principle and sequential test

Central Lincolnshire Local Plan (CLLP) Policy LP1 advises that the authority will take a positive approach to development that reflects the presumption in favour of sustainable development contained in the National Planning Policy Framework (NPPF). Planning applications that accord with the policies in the Local Plan will be approved without delay. CLLP Policy LP2 goes on to advise that the Lincoln urban area will be the principal focus for development in Central Lincolnshire, including retail and other employment development.

The site has no specific allocation within the CLLP proposals map. CLLP Policy LP6 is relevant and requires that development proposals for main town centre uses, such as those proposed, in out-of-centre and edge-of-centre locations will be required to demonstrate their suitability through a sequential site test in line with the NPPF.

Paragraph 86 of the NPPF advises that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available should out of centre sites be considered. The application site is located approximately 3.5km to the south west of Lincoln City centre and therefore is an out of centre site in retail planning terms.

Paragraph 87 of the NPPF advises that, when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

Paragraph 89 of the NPPF advises that when assessing applications for retail development outside town centres local planning authorities should require an impact assessment if the development is over a threshold of 2,500 square metres of gross floorspace. This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of these considerations, paragraph 90 advises that the application should be refused.

A Planning and Retail Statement accompanies the application, which also includes an assessment of impact on nearby centres. It states that the Moorland Centre is a large, vacant retail property. A small proportion of the building has most recently been occupied by Co-op Travel, which has now relocated to a unit adjacent to the M&S Foodhall. The centre had previously been occupied by Downtown, a home and fashion store which included a garden centre and coffee shop. It historically sold a range of goods including furniture, clothing, shoes and food. Permission was first granted in 1988 for the retail use, with no restrictions on the range of goods that could be sold.

The statement considers that the principle of retail development in this location has been established through the existing Moorland Centre. Indeed, the proposal could operate from the existing premises without the need for planning permission. However, in order to provide a robust assessment of the current proposals for replacement retail units in this location, the statement also considers the proposal against the provisions of the NPPF and the CLLP policies.

To inform the sequential test the statement assesses the potential for vacant premises and sites within the city centre. Those considered include the former Boots premises on the High Street, the vacant premises on Free School Lane, the House of Fraser unit, the former Co-op store near City Square and the vacant Jysk, Toys R Us and BHS stores at St. Marks. These have all been dismissed either due to their size, lack of servicing space, the absence of adjacent customer parking or that there is an approved planning permission for their re-development or use.

The sequential test also assesses potential sites within the district centres of Birchwood, The Forum and Hykeham Green, and the local centres of Bracebridge, Bracebridge Heath and North Hykeham (Newark Road crossroads). No sites were identified as being suitable given their size.

Key public car park sites have also been considered, but dismissed as being unavailable for development, as they are considered important facilities for the city, local residents and visitors. Public open space and recreation land has also been considered, none of which are vacant or underutilised and have therefore been dismissed.

The statement considers that the site is located within an existing retail destination with good accessibility, and therefore other out of centre locations will not form sequentially preferable locations. Officers are therefore satisfied that the proposals accord with the requirements of the NPPF in terms of the sequential test.

In terms of the retail impact the total floorspace proposed by the Aldi foodstore and the two retail units is 2,664 square metres, which is less than half the existing floorspace of the Moorland Centre, which is over 6,000 square metres. The statement suggests that re-occupying the existing building would be likely to have a higher turnover than the proposal, and therefore a greater retail impact. It is considered that a retail impact assessment is therefore not strictly necessary but has been undertaken in order to provide a robust assessment of the proposed development.

The analysis concludes that the majority of trade will be diverted from out-of-centre stores including retail parks. The role and function of the city centre and other nearby centres would not be undermined as a result of the proposed development. There would therefore not be any harm to the vitality and viability of the centres in terms of the considerations of the NPPF. Officers are therefore satisfied that the proposals accord with the requirements of the NPPF in terms of retail impact.

However, to ensure that the retail offer of the city centre is protected, a condition will restrict the range of goods that can be sold from the foodstore and retail units. This will require that the foodstore shall devote no more than 20% of the net sales floorspace to the sale of clothing and footwear, which is similar to the restriction on the adjacent M&S Foodhall. The two retail units shall not be used for the sale of food and drink (apart from ancillary sales) or the sale of clothing and footwear. The agent has no objection to these conditions and officers are satisfied that they are

reasonable and will ensure that the development does not cause harm to the vitality and viability of the city centre.

It is therefore considered that the application meets both local and national policy tests. The occupants of 14 Middlebrook Road and 33 Parksgate Avenue in their objections consider that there are plenty of food stores, supermarkets and drive-thrus, and therefore no more are needed. Notwithstanding this, officers have no issue in principle with the proposed uses in this location, particularly given the exiting mixed retail use of the vacant premises. The application would therefore be in accordance with the requirements of CLLP Policies LP1, LP2 and LP6, and guidance within the NPPF.

Visual amenity

The vacant Moorland Centre is a white metal clad and glass building, approximately 5m in height, with tall feature entrances and a metal roof. The occupant of 33 Parksgate Avenue has raised objection to the loss of the existing "iconic" building. The existing car park sits to the south with trees and landscaping softening the boundary with the residential properties beyond on Parksgate Avenue. Trees and bushes to the eastern edge of the site act as a semi-permeable buffer between Tritton Road and the site.

The surrounding area is predominantly characterised by small and medium scale industrial and commercial units. The M&S and Co-op buildings are taller and are of a modern form and design. The Elite Fish and Chip Shop restaurant is a single storey brick built structure with the Lindis Retail Park to the north accommodating a range of scales and designs, with the Sainsburys having a large footprint and prominent form.

The Design and Access Statement (D&A) advises that the Aldi foodstore and adjacent retail units would address the new car park to the south east with their shop frontages, feature entrances and canopies. This will in turn mean that the back of house areas will face towards the service yard at the rear of the units, to the north west of the site. This will improve the visual amenity for those entering the site from Tritton Road with the relocation of the current service yard area from the north east of the site along Moorland Way. The new drive-thru restaurant is orientated so that the shopfront and entrance face Tritton Road, addressing the access road into the site from Moorland Way.

The overall height of the new Aldi foodstore and adjacent retail units ranges from approximately 5m at the rear increasing to 8.5m at the ridge of the mono-pitch to the front. When viewed from its frontage the overall height of the proposed building is approximately 2m taller than the existing, however, it is worth noting that the footprint is half the size. This opens up the site and it is considered by officers that the scale and position of the proposal is acceptable, particularly when viewed in the context of the M&S Foodhall, which measures 8m in height at the front with a sloped roof rising to 10m at the rear.

The drive-thru restaurant is approximately 4m in height for the main volume of the building with the feature signage reaching approximately 7m. The reduced mass and scale of this building would relate well to the Elite Fish and Chip Shop building, presenting a frontage to Tritton Road. Accordingly, officers have no objection to the scale and position of this element of the proposal.

Officers have no objection in principle to the removal of the existing building, which has been vacant for some time. Officers consider that the length, height and mass of the proposed structures would not be out of character here. It is therefore considered that the site is of a sufficient size to comfortably accommodate the proposed development along with the associated car parking, new access and service yard. Officers are therefore satisfied that the proposal would relate well to the site and surroundings in relation to the height, scale and mass, in accordance with CLLP Policy LP26.

With regard to the design, the D&A advises that the new Aldi foodstore is a mono-pitched single storey building with the roof at its lowest to the rear, rising to a double height façade that faces the car park and Tritton Road. The building is wrapped in a combination of anthracite and silver metal cladding panels and also benefits from generous areas of curtain walling, particularly to the south west corner of the building, where a large glazed area and cantilevered anthracite canopy provide an active focus for the shopfront.

The two adjacent retail units will complement the Aldi foodstore in both their form and materiality. The mono-pitched form will be replicated, with the roof height being reduced slightly to help reduce the apparent massing of the building by creating a visual break at the ridge level. The same material palette will be continued for the main body of the building, with a slightly different approach being taken for the main feature entrance in order to reflect the form of the M&S Foodhall and Lincolnshire Co-operative Travel.

Elevations have also been provided to illustrate the Aldi foodstore in advance of the phase two retail units being constructed, and officers are also satisfied with this in terms of both the mass and design.

The new drive-thru restaurant is a single story, flat-roofed unit. The materiality includes areas of vertical timber and cement board cladding. This is further complimented by large areas of curtain walling, both this and the entrance feature reflecting the main building. The building will have an active frontage to the road and drive-thru lanes with the material palette extended around the plant area.

The service yards to the rear of the foodstore and the retail units will be enclosed with a black paladin security fence. Temporary ply faced timber hoarding will be located around phase two of the development, the retail units, until these are constructed.

Further details of the materials, including hard surfacing, will be required by condition but there is no objection in principle to the palette suggested. Officers are therefore satisfied that the design and appearance of the proposals are acceptable. It is considered that the development would complement the architectural style of the local surroundings, in accordance with CLLP Policy LP26. It is also considered that the proposals would function well and add to the overall quality of the area, as required by paragraph 127 of the NPPF.

Trees and landscaping

The City Council's Arboricultural Officer has visited the site and confirmed that there are no trees within the site which are protected by a Tree Preservation Order (TPO), nor that are worthy of protection. He has identified that there is a considerable collection of 26 trees which are orientated parallel with Tritton Road, these specimens are protected by the Tritton Road/Moorland Avenue No.1 TPO 2017. However, he considers that none of these trees appear to be close enough to the proposed works and redevelopment to recommend the use of protective measures to ensure their safe retention.

He has also identified that there is a section of hedgerow to the north west of the site, which will require removal to accommodate the service entrance for Aldi. He notes that there is minimal native species content within the length of the feature and the hedge line is also essentially isolated as it does not form an effective corridor with associated ecotones or similar habitat types. As a result, the hedge line is likely to provide poor biodiversity potential, however, it is likely to be excellent habitat for nesting birds. Officers would therefore suggest that a condition of any permission specifies that the removal of any trees, hedgerows, shrubs or scrub shall be undertaken outside of bird nesting season; between March and August inclusive.

The Arboricultural Officer has also noted that the position of the proposed drive-thru restaurant is currently populated with a mixture of specimen and ground cover shrubs. All of those in situ are commonly planted species and none of which are outstanding specimens which warrant retention.

In terms of the proposed landscaping two of the existing mature Silver Birch trees adjacent to Moorland Way to the north east of the site are to be retained and the planting strip would be extended into the site and around the proposed drive-thru restaurant. The landscaped area will include low level shrubs and new trees. Officers welcome this but would also want to see additional landscaping, where practicable, within the car parks. This matter will therefore be conditioned to require a landscaping scheme. A condition will also ensure that the retained trees are protected during construction.

Impact on residential amenity and neighbouring uses

The proposed Aldi foodstore and the drive-thru restaurant would be located over 70m and 55m respectively from the south west boundary of the site with properties on Parksgate Avenue. The boundary is defined by fencing along with several trees adjacent, which provide a degree of screening. Officers are satisfied that the separation is more than sufficient to ensure that the proposed structures would not appear overbearing, overlook or result in loss of light.

Properties on Middlebrook Road, located on the opposite side of Tritton Road, would be over 75m from the drive-thru restaurant. This would be obscured to a degree by the existing Elite Fish and Chip Shop restaurant and the trees and planting adjacent to the site frontage. Again, officers are satisfied that the occupants of these properties would not be unduly affected by the proposal in terms of the overlooking, loss of light or through an overbearing impact.

The City Council's Pollution Control (PC) Officer has considered the application and noted that, due to the proximity of the proposed development to neighbouring sensitive uses, there is potential for significant problems due to noise, vibration and dust during the demolition/construction phase unless adequate control measures are put in place. He has recommended that a Construction Environmental Management Plan be conditioned, which will be duly applied to any grant of consent. Hours of demolition and construction will also be conditioned.

The PC Officer has raised no objection to the operation of the development in respect of noise subject to conditions to control the hours of opening, delivery hours and waste collection. He notes that noise from deliveries and waste collection can cause considerable noise problems during the noise sensitive hours for residential properties in the vicinity. The agent has no objection to the suggested hours of opening or waste collection but has requested that the delivery hours be subject to a Delivery Management Plan, so the hours can be agreed at a later stage in consultation with the PC Officer. The PC Officer has no objection to this and a condition will accordingly be applied to any grant of consent. Officers are therefore satisfied that neighbouring residents and uses will be appropriately protected from potential noise associated with the construction and also the operation of the development.

To further protect the amenities of neighbours the PC Officer has requested that details of any external lighting be conditioned for approval to ensure that this is appropriately designed to avoid any off-site impacts. This is a point queried by the occupant of 33 Parksgate Avenue and this condition will enable the detail of the proposed lighting scheme to be carefully considered in this respect.

Finally, the PC Officer has noted that the development includes a drive-thru restaurant. He states that commercial kitchen extract systems can cause significant disturbance when located close to other sensitive development due to both emissions of odour and noise. Therefore, a condition is recommended to require details of any systems prior to their installation.

The occupant of 33 Parksgate Avenue has made a comment regarding the late night use of the car park by cars and for parties, and the noise impact this has on residents. The proposed block plan indicates three barriers; one to each of the existing access points from Moorland Way and one adjacent to the new access point to serve the retail units. The agent has noted that the barrier to this new access will be set slightly within the site to allow 24/7 access to the five electric vehicle

charging points. The agent has advised that the barriers will be closed to suit the occupiers opening hours. The barriers therefore provide the opportunity to control the access to the site, although officers consider this to be a management issue as opposed to a matter that requires control through the planning process. It has been requested that the agent make the applicant aware of the officer's position on this.

In accordance with CLLP Policy LP26, it is therefore considered that the amenities which neighbouring occupants and uses may reasonably expect to enjoy would not be unduly harmed by or as a result of the development.

Access, parking and highways

The site is accessed from Moorland Way, via an entry only left turn close to the junction with Tritton Road. The D&A advises that, although it is possible to drive around Moorland Way and enter the car park at its north west corner, the majority of customers use the first access point to the Elite Fish and Chip Shop restaurant and the existing car park. An additional vehicle entrance/exit further along Moorland Way is proposed, which would lead directly to the Aldi foodstore car park, which should help to ease potential congestion across the site. The application also proposes improvements to the north west access point, adjacent to the M&S Foodhall.

The existing 169 bay car park is to be re-configured enabling a further 64 new communal spaces to be provided here. The new car park serving Aldi, the retail units and the drive thru restaurant will accommodate 129 spaces. Across the whole site a total of 362 spaces will be provided, which includes disabled, parent and child and electric vehicle charging bays. Cycle stands are proposed adjacent to the Aldi foodstore and the drive-thru restaurant.

Service vehicles will not enter the car park, but rather they will proceed along the full length of Moorland Way to access the new building's concealed service area to the rear, north west.

In terms of pedestrian access there is a footpath link into the car park directly from Tritton Road. This footpath separates at various junctions along the perimeter of the site, allowing pedestrians to access the site from multiple locations. The site is located within easy walking distance of nearby residential properties and public transport links.

The occupants of both 14 Middlebrook Road and 33 Parksgate Avenue, and the Lincoln Civic Trust, have raised concerns regarding the access, parking provision, air pollution, congestion and highway safety for drivers and pedestrians. They consider that the existing drive thru already causes considerable traffic problems affecting access to other units, and the area seems unable to cope. Although no formal objections have been received to this application from the adjacent businesses of Eastfield Enterprise, Hindles of Lincoln and Lincoln Welding & Engineering Supplied Ltd, they raised objections to the previous application in respect of traffic numbers, access, queueing and safety, particularly in relation to large supply lorries.

An objection has also been received from TPS Transport Consultants Ltd on behalf of Asda. This is identical to objection submitted against the previous application. This considers that the submitted Transport Assessment fails to demonstrate that servicing can be safely accommodated; there is no consideration given to the cumulative impact of the new use on highway capacity; and the junction to Tritton Road currently experiences heavy queueing. The objection also considers that it is highly likely that the junction will experience capacity issues, to the detriment of the expeditious movement of traffic on Tritton Way.

The Lincolnshire County Council (LCC) in their capacity as Local Highway Authority has considered the application along with the accompanying Travel Statement and Travel Plan. The LCC Officer has confirmed that the comments made by TPS Consultants and also the specific highway safety concerns raised by the nearby businesses at the time of the previous application have been considered as part of the assessment of the current application and in forming of their

response. These are addressed in the LCC Officer's final response to the application and are detailed below.

The LCC Officer considers that the Transport Statement submitted is robust and the analysis of trip generation considers all trips to the site to be 'new' trips, as opposed to linked, pass by or diverted trips, as it can be reasonably expected that a proportion will be. The residual trip generation is lower than the consented fall-back use of the site at peak times. Due to the consented fall-back use of the site and associated higher trip generation the LCC Officer does not feel it is necessary to request further assessment of the cumulative impact of the proposed development on the surrounding network.

The LCC Officer has stated that, whilst local stakeholders have previously referred to accidents and 'near misses', there has been no recorded Personal Injury Accidents in the vicinity of the bend on Moorland Way in the last five years. Again, the LCC Officer notes that the residual trip generation is lower than the consented fall-back use of the site, and that includes the use of the existing northern junction onto Moorland Way beyond the bend.

Swept path analysis has been provided demonstrating that articulated vehicles can use the service yard to the north of Moorland Way and access and egress the public highway in a forward gear. The LCC Officer raises no objection in this respect.

The LCC Officer notes that there are good sustainable transport links to the site, including the shared footway/cycleway on Tritton Road, Hirebike station at the site frontage, regular bus services and proposed cycle parking provision within the site. The Travel Plan details the developer's commitment to sustainable transport, which is welcomed as best practice by the LCC Officer. The LCC Officer has confirmed that it is not necessary to condition the Travel Plan.

The LCC Officer concludes that it is not reasonable to raise an objection to the proposals in accordance with paragraph 109 of the NPPF as the development will not have a severe impact on highway safety or capacity.

The LCC Officer also raises no objection to the amendments to the north west access, adjacent to M&S Foodhall which requires stopping up and dedication of public highway. They note that this has been agreed by all parties.

Officers are therefore satisfied that the application and the objections relating to access, parking, highway safety and highway capacity have been thoroughly assessed by the LCC in their professional capacity as Local Highway Authority. On this basis officers would raise no objection to the application in this respect. The site is in a location where travel can be minimised and the use of sustainable transport modes maximised, in accordance with CLLP Policy LP13.

Flood risk and drainage

The application is accompanied by a Flood Risk Assessment. No objection has been raised to this by statutory consultees.

In terms of surface water drainage Anglian Water and the Upper Witham Internal Drainage Board have made comments and requested that this matter should be agreed in consultation with the LCC as Lead Local Flood Authority and the Environment Agency (EA).

The EA has requested a condition to require that no drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters, to consider whether sustainable drainage systems (SuDS) are appropriate given the potential risk of contamination.

The LCC in their capacity as Lead Local Flood Authority has raised no objection to the application subject to a condition requiring a surface water drainage scheme. This will be duly applied to any grant of consent and will incorporate the requirements of the EA to ensure that the proposed scheme also includes an assessment of the risks to controlled waters.

A condition requiring a scheme of on-site foul drainage works has been requested by Anglian Water, which will be applied to any grant of consent.

The development would therefore be in accordance with the requirements of CLLP Policy LP14.

Contaminated land

CLLP Policy LP16 advises that development proposals must take into account the potential environmental impacts from any former use of the site. The PC Officer's response has advised that, due to past uses on the site, there is the potential for significant contamination to be present. He has noted that the applicant has submitted a contamination land report (Preliminary Risk Assessment & Geo-Environmental Assessment report) in support of the application. As part of the report's recommendations, the PC Officer notes that further assessment of the ground conditions will be required once the existing structures have been removed. Accordingly, the PC Officer has requested that the standard contaminated land conditions be applied to any grant of consent.

The EA has advised that the applicant's report demonstrates that it will be possible to manage the risks posed to controlled waters by the development. Further information will be required, but they are satisfied that this can be dealt with by conditions. These conditions requested by the PC Officer will therefore also include the requirements of the EA in respect of the potential contamination to controlled waters.

Archaeology

The application includes an Archaeological Desk Based Assessment (DBA). This advises that any new development will necessarily involve the disturbance of subsurface deposits within the site boundary, although there is little evidence to suggest that significant archaeological deposits will be affected. It also considers that the early 20th century quarrying activity, and the development of the industrial/commercial estate from the 1960s to the present day is highly likely to have destroyed or significantly truncated any archaeological deposits predating this period within the site boundary, and consequently the potential for encountering archaeological remains of any period overall is considered to be negligible. The DBA concludes that no further archaeological work is necessary, subject to agreement by the City Archaeologist.

The City Council's Archaeologist considers the DBA is sufficient to fulfil the requirements of NPPF paragraph 189 for a proportionate assessment of the significance of archaeological heritage assets affected by the proposed development. It was produced following consultation of the Lincoln City Historic Environment Record, and he considers that there would be no justification for further field evaluation in this case. The City Council Archaeologist concurs with the conclusions of the report that there is a negligible potential for archaeological remains to be present on the site and advises that no further work is required.

Swanholme Lakes SSSI

Swanholme Lakes SSSI is located approximately 90m to the north west of the site separated by the railway line and built development. Natural England (NE) has commented on the application regarding this. They have advised that "Natural England considers that the proposed development will not have significant adverse impacts on designated sites and has no objection". With specific reference to the Swanholme Lakes SSSI they also go on to advise that "Natural England considers that the proposed development will not damage or destroy the interest features for which the site has been notified and has no objection".

Based on this advice, and considering the scale of the development and its physical separation, officers are satisfied that it would not have an adverse impact to a SSSI in accordance with CLLP Policy LP21 and paragraph 175 of the NPPF.

EIA Screening Opinion

The proposal falls under 'Urban Development Projects' within the Schedule 2, Section 10(b) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The development exceeds the threshold in 10(b)(i); proposing urban development in excess of 1 hectare. This requires that the development be screened to determine whether the application should be accompanied by an EIA. This process involves considering the location, scale and characteristics of the development to determine whether a development is likely to have a significant effect on the environment and therefore require an EIA. Key issues to consider are scale, potential contamination, potential increase in traffic, emissions and noise.

The screening process also took account of the location of the Swanholme Lakes SSSI and the response of no objection from Natural England.

The conclusion of the screening process was that the development would not result in significant effects on the environment. The proposed development is of a scale that is unlikely to cause more than local significance and would also not affect the features for which the nearby sensitive area was designated. The potential, localised impacts of the development can be appropriately considered as part of the normal application process. The council therefore adopted the screening opinion that the proposed development is not EIA development and therefore the submission of an environmental statement is not required.

The objection by Jigsaw Planning received as part of this application on behalf of Asda states that there is no evidence that the screening opinion has been issued by the council, and that this should take account of the SSSI. At the time of the receipt of this letter of objection, the screening opinion decision had not yet been issued although, as outlined above, the requirements of the EIA regulations have now been fully complied with. Officers sent a copy of the screening opinion to Jigsaw Planning at their request. The screening decision (2021/0393/SCR) is also publicly available on the council's website.

Bio-diversity net gain and green infrastructure

In their consultation response to this application Natural England has not raised any objections to the development nor have they requested any conditions. However, they have provided advice that the applicant may want to follow a net gain approach and take the opportunity within the proposal to demonstrate a net gain in biodiversity. They have also advised that multi-functional green infrastructure (GI) can perform a range of functions including improved flood risk management, provision of accessible green space, climate change adaption and biodiversity enhancement. The proposed development is within an area that NE considers could benefit from enhanced GI provision, and would encourage the incorporation of GI into the development, including additional street trees or green roofs/walls.

This is noted in the objection letter from Jigsaw Planning. The objection acknowledges that NE do not object, but they do set out advice in relation to Biodiversity Net Gain and GI. The objection states that there is no evidence within the application that the recommendations are met by the proposals.

Following the advice of NE the agent has undertaken and submitted a Biodiversity Net Gain Assessment. This assesses the biodiversity impact resulting from the proposed development, by comparing the pre-development value of the site to the proposed habitat composition post development.

It states that the ornamental hedgerow and the majority of the shrub beds will be lost to facilitate development works, however, two Birch trees and associated shrubs assessed as having moderate condition are proposed for retention and enhancement to good condition within the east of the site. Enhancement works will include underplanting with native shrub species or those of a known value to wildlife and incorporating a sensitive management plan to allow continuous provision of nesting habitat as well as supporting the production of nuts and berries for foraging fauna. Further shrub planting will be created adjacent to the retained shrubs and along the verges associated with the new drive-through restaurant. Again, the verges will be planted with native shrubs or those of a known value to wildlife and will be sensitively managed to ensure a good condition is achieved in the target time of 1 year. Five native trees are proposed to be planted within the shrub beds adding to the overall structure and diversity.

The assessment concludes that the development would achieve a net gain in biodiversity of 20.38%.

The development would therefore deliver biodiversity improvements, as required by CLLP Policy LP21 and paragraph 175 of the NPPF. The GI provision would also be enhanced by the additional trees and planting. Officers are therefore satisfied that the development is acceptable in this respect. The aforementioned landscaping condition will specifically reference the recommendations of the Biodiversity Net Gain Assessment to ensure that the development delivers a net gain by incorporating native shrub species or those of a known value to wildlife.

Other matters

Air quality and sustainable transport

The application includes electric vehicle recharge points, a requirement highlighted by the PC Officer, in line with the recommendations of CLLP Policy LP13 and paragraph 110 of the NPPF. The proposed layout indicates seven spaces although officers have advised the agent that further spaces are expected to be provided in accordance with the East Midlands' Air Quality Network guide on air quality and development. A scheme demonstrating an increased provision and providing the specification for the units will be conditioned on any grant of consent.

Design and crime

A response from Lincolnshire Police raising no objections has been received.

Conclusion

The principle of the uses on this unallocated site is considered to be acceptable and the application has demonstrated that it has met the policy requirements of the sequential and retail impact tests. The layout, scale and design of the development is acceptable, complementing the architectural style of the local surroundings. With appropriate conditions it is not considered that the amenities of neighbouring residential properties or neighbouring uses would be unduly harmed by the proposal, either during its construction or as a result of its operation.

Matters relating to highways, surface water drainage, foul water drainage, contamination, archaeology, trees, landscaping, biodiversity net gain and green infrastructure have been appropriately considered by officers and the relevant statutory consultees, and can be dealt with as required by condition. The development would not have a significant adverse impact on the Swanholme Lakes SSSI, a designated site. The proposal would therefore be in accordance with the requirements of Central Lincolnshire Local Plan Policies LP1, LP2, LP6, LP13, LP14, LP16, LP21, LP25 and LP26 as well as guidance within the National Planning Policy Framework.

Application Determined within Target Date

Yes

Recommendation

That the application is Granted Conditionally subject to the following conditions:

- Time limit of the permission
- Development in accordance with approved plans
- Contamination
- Surface water drainage scheme
- Foul water drainage scheme
- Tree protection measures
- Details of materials
- Site levels and finished floor levels
- Landscaping scheme (to include biodiversity net gain recommendations)
- Details of an electric vehicle charging scheme
- Construction Environmental Management Plan
- Restriction on hours for demolition/construction/delivery
- Assessment of off-site impact of lighting
- Details of any extraction/filtration systems associated with the drive-thru use
- Restriction on hours for waste collections
- Delivery Management Plan
- Restriction on opening hours of retail units and drive-thru
- Restriction on retail use
- Removal of trees/hedgerows/shrubs outside of nesting season