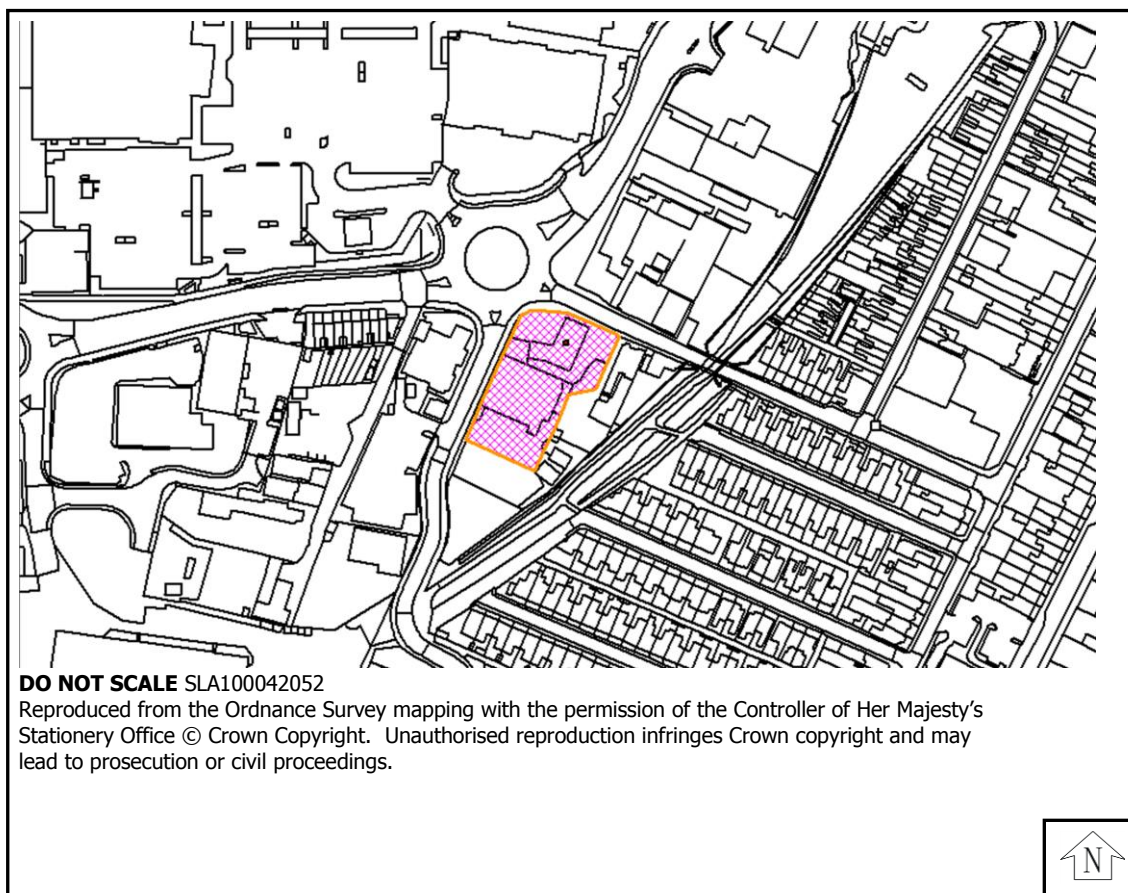


**PLANNING COMMITTEE – 18 SEPTEMBER 2018****APPLICATION NO** DC/18/2576/FUL**LOCATION**Former Mill Road Service Station  
Mill Road  
Lowestoft  
Suffolk  
NR33 0PP

**EXPIRY DATE** 21 September 2018  
**APPLICATION TYPE** Full Application  
**APPLICANT** McDonald's Restaurants Ltd

**PARISH** Lowestoft

**PROPOSAL** Construction of a freestanding two-storey restaurant with drive-thru, car parking, landscaping, patio, playframe and associated works. Installation of 2No. COD (Customer Order Display) with associated canopies.

**1 SUMMARY**

- 1.1 Planning permission is sought for the erection of a two storey free standing unit with drive thru takeaway access. The unit is to be used for A3 (Café and Restaurants) and A5 (Hot Food Takeaway) uses.

- 1.2 Recommendation is for approval, subject to the conditions detailed in section 10 of this report, and no objection being received from the Head of Environmental Health.
- 1.3 This application is a tandem application with applications DC/18/2583/ADI (Illuminated Advertisement Consent - Installation of a free standing 8m totem sign), DC/18/2584/ADI (Illuminated Advertisement Consent - Installation of 7no. fascia signs), and DC/18/2585/ADN (Illuminated Advertisement Consent - Installation of 7no. fascia signs)

## **2 SITE DESCRIPTION**

- 2.1 The site covers an area of 0.3 hectares and is located on the Junction of Mill Road and Kirkley Rise to the south east of the A12, South Lowestoft.
- 2.2 The 'Lothing Park' retail development lies to the north west of the site and contains a 24-hour ASDA supermarket and Dunelm Mill furniture store. A Marston's public house and family restaurant, known as Spring Tide, is located to the west of the site on the opposite side of Kirkley Rise.
- 2.3 The site is located within the Physical Limits of Lowestoft, and within Policy Area SSP5 of the Lake Loathing and Outer Harbour Area Action Plan ("the AAP"). Additionally the site is situated outside albeit immediately adjacent to, the western boundary of the South Lowestoft Extended Conservation Area.
- 2.4 A large belt of mature, un-protected trees, are located to the south east (out of the application boundary) of the site, with Mill Road to the north east and Kirkley Rise to the west.
- 2.5 The site was previously used as a car dealership and a Petrol Filling Station is located on the Mill Road frontage. The site currently contains buildings totalling 1,227 sq. m together with large areas of hardstanding and some small pockets of immature / scrub vegetation. The site is a brownfield site, located within a prominent area, and in a poor state of repair and in officer's opinion is in need of physical regeneration and environmental improvement.
- 2.6 The site is largely located within Tidal Flood Zone 1 as defined by the Environment Agency's Flood Risk Maps, although a small section in the south-eastern corner falls within Flood Zone 2.
- 2.7 The site is located within an Archaeological Site of Regional Importance.

## **3 PROPOSAL**

- 3.1 Planning permission is sought for a freestanding two-storey restaurant with drive-thru, car parking, landscaping, patio, playframe and associated works.
- 3.2 The proposal is for the site to operate on a 24 hours basis, 7 days a week.

- 3.3 The proposed drive-thru restaurant will be set over two floors, the proposed Gross Internal Area including chiller and coral is 584m<sup>2</sup>, the proposed Gross Internal Area excluding chiller and coral is 504m<sup>2</sup>, and the dining area is 177m<sup>2</sup>.
- 3.4 47no. car parking spaces are proposed for the commercial units including 2no. dedicated accessible spaces, 2no. 'grill bays', and 43no. standard parking bays. The proposal also includes 4no. powered two wheeler bays, 8no. designated bicycle parking spaces for public use and 2no. secured bicycle spaces for staff.

## **4 CONSULTATIONS/COMMENTS**

### **4.1 Neighbour consultation/representations**

Two letters of objection have been received raising the following matters:

- Increased litter
- Seagull nuisance
- On-street parking issues
- State of the undeveloped area of land to the south of the site (area that was given consent for residential development as part of the previous application)
- 24 hour opening and that traffic predictions have not taken account of reduction following opening of third crossing
- Potential health implications following opening of third McDonalds in town
- Potential global environmental impact from use of palm oil
- Traffic densities and flows
- Pollution from increased traffic
- Local competition
- Safety implications of signage

### **4.2 Parish/Town Council Comments**

The Planning Committee of Lowestoft Town Council considered this application at a meeting on 10 July 2018. It was agreed to recommend support of the application subject to bins being provided with the drive-thru facility and an electric charge point(s) in the car park.

**Consultees responses can be viewed in full on the Council's website**

### **4.3 Suffolk County Highways Authority**

No objection subject to conditions relating to following:

- Submission of access details (Condition 3)
- The provision of parking prior to first use (Condition 4)
- Provision of bin storage (Condition 6)
- Submission of water discharge details (Condition 7)

Details on the secure cycle storage areas was also requested, however these details were subsequently provided, and as such it will now be conditioned that these are provided.

No comment to add to the Suffolk County Council Highways response, provided that the measures to encourage sustainable transport to the site identified in the Travel Plan (dated March 2018) are implemented in full if permission is granted. (Condition 15)

#### 4.4 **WDC Head of Environmental Health**

##### Noise

Requested that a Noise Assessment be conducted due to a number of areas of concerns including:

- proximity of site to existing dwellings in Windsor, Grosvenor and Cleveland Road;
- the fact that these are three storey properties (negates the effectiveness of the proposed acoustic fence in mitigating noise at receptor bedrooms on the elevated floors);
- the complex plant proposed for the roof (no information on predicted acoustic performance of the plant, noise break out or impact of noise on existing residents); and
- deliveries.

The Noise Assessment has subsequently been submitted, however, at the time of writing this report it had still to be assessed by our Environmental Health Team. If comments are received before committee then an update report will be circulated prior.

##### Contaminated Land

The applicant has submitted a number of reports which relate to previous applications on the site. While these provide very useful information they do not relate the results directly to this application or provide details of the applicant's intentions. The applicant has submitted a very brief letter report from Pam Brown Associates which mentions that the previous reports are presently being reviewed and makes some recommendations for further site investigations. I would concur with these recommendations and these further works, together with remediation and validation, should be secured using appropriately worded conditions. (Conditions 20, 21, 22, 23, and 24)

#### 4.5 **Waveney Norse - Property and Facilities**

No response received.

#### 4.6 **Essex and Suffolk Water PLC**

No response received

#### 4.7 **Anglian Water**

No objection subject to compliance with their requirements.

#### 4.8 **Suffolk Fire and Rescue Service**

No objections

#### 4.9 **Environment Agency**

No objections subject to conditions on groundwater and contaminated land being imposed. (Conditions 7, 8, 9, 10, and 11)

#### 4.10 **Suffolk County Archaeological Unit**

No objection, and consider that there would be no significant impact on known archaeological sites or areas with archaeological potential, and do not believe any archaeological mitigation is required.

#### 4.11 **Natural England**

No comment

#### 4.12 **Police - Alan Keely Crime Reduction Beccles Police Station**

No response received

#### 4.13 **Suffolk County - Rights Of Way**

No response received

#### 4.14 **Suffolk Wildlife Trust**

No objection. They are satisfied with the findings of the ecological survey report (SES, May 2018), and request that the recommendations made within the report are implemented in full, via a condition of planning consent, should permission be granted. (Condition 16)

#### 4.15 **WDC Estates Asset Management**

No response received.

#### 4.16 **SCC Local Lead Flood Authority**

Recommend approval subject to conditions. (Conditions 12, 13, and 14)

#### 4.17 **WDC Economic Regeneration**

Seeks to support planning applications where the application clearly supports the growth and regeneration of the district, and where they help meet the targets identified in the Lowestoft Lake Lothing and Outer Harbour Area Action Plan (AAP).

The former Mill Road Service Station is part the AAP Kirkley Rise site, an area allocated for a mixed -use development under Policy SSP5, and whilst we are very keen to see this redundant site brought back into use and the creation of new businesses and jobs we feel the application does not fulfil the principles in the AAP.

## 5 PUBLICITY

The application has been the subject of the following press advertisement:

Category	Published	Expiry	Publication
Public Right of Way Affected,	06.07.2018	27.07.2018	Beccles and Bungay Journal
Public Right of Way Affected,	06.07.2018	27.07.2018	Lowestoft Journal

## 6 SITE NOTICES

The following site notices have been displayed:

General Site Notice	Reason for site notice: In the Vicinity of Public Right of Way, Date posted 28.06.2018 Expiry date 19.07.2018
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## 7 RELATED APPLICATIONS

Reference No	Proposal	Decision	Date
DC/17/5261/DEM	Prior Notification of Demolition - Site is to be cleared of all buildings, fuel infrastructure, substructure services and drains sealed at the boundary. A perimeter 2000mm high mesh perimeter fence is to be erected.	Prior Approval Not Required	27/02/2018
DC/16/4137/FUL	Demolition of existing buildings and full planning permission for the erection of mixed-use development for retail (Use Class A3/A5) including drive-thru and residential (Use Class C3), with associated access, car parking, landscaping and associated infrastructure	Permitted	03/03/2017
DC/18/2585/ADN	Non Illuminated Advertisement Consent - Various Site Signage including 1no. gateway height restrictor, 9no. free standing signs, 1no. side by side directional, 3no. banner units, 1no. play land sign and 23no. Dot Signs	Pending Decision	
DC/18/2583/ADI	Illuminated Advertisement Consent - Installation of a free standing 8m totem sign	Pending Decision	
DC/18/2584/ADI	Illuminated Advertisement Consent - Installation of 7no. fascia signs	Pending Decision	

## **8 PLANNING POLICY**

Section 38(6) of the planning and compensation act 1990

8.1 The National Planning Policy Framework (2018) and National Planning Policy Guidance (NPPG) forms a material consideration in the determination of this application in particular those areas of guidance relating to the location of town centre uses.

8.2 Planning (Listed Buildings and Conservation Areas) Act 1990, Part II

8.1 The Waveney Core Strategy was adopted in 2009 and contains the following policies of relevance to the determination of this application:

- CS01 sets the Spatial Strategy for the District;
- CS02, requires development to be of High Quality and Sustainable Design;
- CS03 deals with Flooding and Coastal Erosion;
- CS05, sets policy for the Lake Loathing and Outer Harbour Area Action Plan; and
- CS10, deals with Retail Leisure and Office Development;
- CS17, deals with the Built and Historic Environment

8.2 The Waveney Development Management Policies Document was adopted in 2011 and contains the following policies of relevance to the determination of this application:

- DM01, deals with development within the physical Development Limits;
- DM02, sets out the Council's Design Principles for new development;
- DM30, outlines measures for Protecting and Enhancing the Historic Environment; and
- DM31, deals with Archaeological Sites.

8.3 Lake Lothing and Outer Harbour Area Action Plan was adopted in 2012. The site is located within Policy Area SSP5 - Kirkley Rise.

## **9 PLANNING CONSIDERATIONS**

9.1 The key considerations in the determination of this application are:

- The principle of a combined A3 (Café/restaurant) and A5 (Hot Food Takeaway) unit in this location – operations requirements and sequential test finding.
- Flood risk and drainage;
- The impact of the proposed development upon the amenity of adjacent and future occupants and users;
- Design and appearance considerations
- Impact upon local heritage assets and archaeology
- Transport and access;
- Ecology and landscaping; and
- Ground conditions.
- Economic benefits

## Principle of Development

- 9.2 Policy CS01 sets out the Council’s Spatial Strategy for the distribution of development and directs the majority of new housing, employment, retail, services and facilities to the Main Town of Lowestoft.
- 9.3 Lowestoft is identified under Policy CS01 as the focus for regeneration, particularly around Lake Lothing and the Outer Harbour area in which the application site is situated. The Town is to accommodate around 5,000 new jobs over current Plan Period.
- 9.4 The site is located within the Lake Lothing and Outer Harbour Area Action Plan (the AAP) Area as set by Policy CS05 and is a focus for employment-led regeneration. In particular, the site falls within the Site Specific Policy Area 5 (SSP5) of the AAP otherwise referred to as Kirkley Rise. The area is identified as a strategic site due to its gateway location between Kirkley District Shopping Centre, South Quay and Kirkley Waterfront.
- 9.5 The Policy Area presents a significant opportunity to link the Lake Lothing Waterfront Area with the existing Kirkley District Shopping Centre. Policy SSP5 indicates that existing employment uses to the west of the Policy Area should be retained and identifies scope to extend the mix of uses across the Policy Area to include residential, retail (adjacent to the Kirkley District Shopping Area) and community uses.
- 9.6 The application site is identified specifically on Figure 4.5.2 of page 97 of the AAP as an ‘employment / residential / mixed use development’ area.
- Retail Facilities
- 9.7 Policy SSP5 allocates the application site for “employment / residential and mixed use redevelopment”. More specifically the Kirkley Road / Horn Hill frontages are identified for employment led mixed use development and the inner areas of the site for residential and employment use.
- 9.8 Whilst the Policy does not specifically allocate the site for retail uses, the explanatory text does draw reference to the potential for the SSP5 Policy Area to deliver new retail facilities adjacent to the Kirkley District Shopping Area as part of a sustainable mix of uses.
- 9.9 The site has previously been granted consent for two units on the site consisting of an A3 restaurant, and A3/A5 drive-thru, with a combined floor area of 615sqm. Both of units were unrestricted in terms of who could occupy them.
- 9.10 For the purposes of planning, the application site is located outside of the defined Town Centre Location (approx. 525m north-east of the site, as the crow flies), and outside of the Kirkey District Shopping Area (approx. 235m south-east of the site, as the crow flies), as defined in Policy DM10
- 9.11 As such, in accordance with paragraph 86 of the National Planning Policy Framework (the Framework) the Local Planning Authority is required to apply the sequential test to the proposed restaurant and drive thru.
- 9.12 The following section considers the Sequential Assessment undertaken by the applicant.



- 9.13 The sequential approach to the location of new town centre uses (including Class A uses) requires such development to 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.
- 9.14 There are two distinct stages to the application of the sequential test: firstly to identify the requirements of the proposed development; and secondly to assess the suitability and availability of more sequentially preferable sites to accommodate the identified requirements.
- Operational Requirements
- 9.15 The Framework requires applicants and local planning authorities to demonstrate flexibility on issues such as format and scale in undertaking the sequential test. In this respect, national policy guidance ('the NPPG') recognises that an operator's modus operandi is a genuine planning consideration which will determine the parameters of the sequential test.
- 9.16 Paragraph 11 of the NPPG goes on to note that: *"...certain main town centre uses have particular market and locational requirements which mean that they may only be accommodate in specific locations..."*.
- 9.17 This is clear guidance that the sequential approach must be adopted with a strong understanding of the commercial market that the proposals are intended to serve.
- 9.18 The NPPG (paragraph 12) also recognises that town centre locations can be "expensive and complicated" to develop, and in this respect there needs to be realism and flexibility in terms of the expectations of whether a town centre site is viable for the proposal.
- 9.20 The Framework (paragraph 86) and the NPPG (paragraph 10) require the sequential test to be applied to 'applications' and the given 'proposals', not to some other form of proposal or disaggregated proposal comprising separate elements.
- 9.21 This matter was further reinforced through the legal case of R(Zurich Insurance Limited) v North Lincolnshire Council [2012BWHC3708 (Admin) and latest in the Supreme Court in the case of Dundee where it was stated that the sequential test criteria 'are designed for use in the real world in which developers wish to operate no some artificial works in which they have no interest in doing so'.
- 9.22 In this instance the 'application proposal' requires a site that has suitability in terms of size. The proposal amounts to 504m<sup>2</sup> (Gross Internal Area). The building footprint has been developed to optimise space (320m<sup>2</sup>). Alternative sites to accommodate the proposal are required to be 0.3ha.
- 9.23 It has been established through a number of inspector's decisions that proposals need to be considered in context as a whole and should not be required to be segregated in order to identify a sequential preferred site. The applicant has indicated that as the proposal is for a drive-thru restaurant, the elements of eating in or driving thru cannot be segregated. In addition, they note that to segregate elements of the scheme would represent "an inappropriate business decision on behalf of the developer".

- Sequential Assessment

- 9.24 The applicant detailed in their submitted sequential assessment that *“the proposed development seeks to provide a drive-thru restaurant to Lowestoft. McDonald’s are represented in both Lowestoft Town Centre and to the south on the A12. Kirkley Rise constitutes a suitable location for a new restaurant which will provide and serve the local area. Oulton Broad District Centre, Kirkley District Centre and Lowestoft Town Centre has been reviewed in detail through both a desktop appraisal and by driving around the area.”*
- 9.25 In addition, they note that *“having reviewed Lowestoft Town Centre, Oulton Broad District Centre and Kirkey District Centre there are no allocated sites within planning policy for a mixed A3/A5 use. The allocated centre maps are shown below.”*
- 9.26 Paragraph 86 of the revised NPPF, states 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 (or expected to become available within a reasonable period) should out of centre sites be considered.”*
- 9.27 The results of this assessment are presented in the application documentation and the key sites considered are assessed in the following table:

Site / Unit	Assessment by Applicant
Former Caravan Park, Saltwater Way, Oulton Broad, Norfolk, NR33 9GT	<p>Suitability – The site is too large to develop the proposal in isolation. It has permission for housing, and is allocated in for mixed use development. The site is accessed from a dual carriageway, with no ability for right hand turns.</p> <p>Availability – Site is currently for sale</p> <p>Viability – Not assessed due to suitability issues</p>
Waveney Rive Tours, Oulton Broad, Bridge Road, NR33 9JS	<p>Suitability – Not large enough to accommodate proposed development</p> <p>Availability – Not for sale and ownership unknown.</p> <p>Viability - Not assessed due to suitability issues</p>
Site of former Customs House, Station Square, Lowestoft, NR32 1BA	<p>Suitability – Sufficient size, would require demolition of existing building, and access/egress is not considered suitable.</p> <p>Availability – Available but advertised for office use</p> <p>Viability - Given the sites proximity to the existing restaurant it is not considered viable to develop this site.</p>
Unit 7, Whapload Road, Lowestoft, NR32 1UL	<p>Suitability – Not be large enough for a two-storey drive-thru restaurant with associated parking</p> <p>Availability – Available to let</p> <p>Viability - Not assessed due to suitability issues</p>

Site / Unit	Assessment by Applicant
79 St. Peter's Street, Lowestoft, NR32 1PL	<p>Suitability – Sufficient size, but considerable redevelopment issues given required demolition and slope of site.</p> <p>Availability – Available to buy</p> <p>Viability - Not assessed due to suitability issues</p>
Former Lowestoft Magistrates and Family Court, Old Nelson St, Lowestoft, NR32 1EQ	<p>Suitability – Not be large enough for a two-storey drive-thru restaurant with associated parking</p> <p>Availability – Available to let</p> <p>Viability - Almost all of the site is made up of the existing structure, which would need to be demolished. Given the topographical issues on the site and the requirement for demolition, it is not considered viable to re-develop the site for a freestanding drive-thru restaurant, use class A3/A5.</p>
Former Battery Green Car Park, NR32 1HA	<p>Suitability – Site is too large for proposed use, and from research, it would appear that the aspirations for the site are for a visually prominent development containing multiple retail and leisure uses, such as a shopping centre or cinema. It is not therefore considered that the freestanding drive-thru restaurant could be developed alongside these long-term aspirations.</p> <p>Availability – No indication that site is for sale.</p> <p>Viability - Not assessed due to suitability issues</p>
Royal Court Hotel, Kirkley, Lowestoft, NR33 0QW	<p>Suitability – Not large enough to accommodate proposed development</p> <p>Availability – No indication that site is for sale.</p> <p>Viability - Not assessed due to suitability and availability issues</p>

9.28 In conclusion, the applicant has demonstrated to the satisfaction of officers that there are no sequentially preferable locations that are suitable or available to accommodate the proposed development.

- Impact upon the Vitality and Viability of the Town Centre

9.29 When assessing applications for retail uses outside of town centres, which are not in accordance with an up-to-date Local Plan the Local Planning Authority should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup>).

9.30 The Council does not have any locally set threshold and the proposal falls well short of the 2,500m<sup>2</sup> specified in the Framework. As such, an assessment of the impact of the proposed development upon existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and the impact of

the proposal on town centre vitality and viability, including local consumer choice and trade is not required in this instance.

- 9.31 Concerns have been received in regards to what would happen to the existing McDonalds located within the Town Centre. In response the applicant has supplied the following comments *“The future of the existing store is independent from the result of this application as each restaurant operates within its own market. There are numerous examples of drive-thru restaurants operating in a similar juxtaposition in towns and cities across the country”*.
- 9.32 It is also noted that as the site has planning permission for an A3 unit and a A3/A5 drive thru unit, it could be conceivable that an operator such as McDonalds, could utilise the existing permission on the site without any major planning issues.
- 9.33 Under the current permitted development allowances it could be possible for the unit to be used for general A1 uses. The loss of A1 has not been considered as part of this application, and therefore it is considered acceptable to impose a condition that removes permitted development rights from the unit so that it can not be used for any uses other than A3 and A5.
- Employment Generating Uses
- 9.34 Whilst Policy SSP5 allocates the site for employment development as part of a mix of uses, it does not specify that the employment should be delivered through traditional Class B employment uses.
- 9.35 The retail sector has been subject to a Select Committee Inquiry by the Department for Innovation and Business (BIS). The BIS Retail Strategy produced in October 2012 emphasised the importance of retail land uses to local economies indicating that ‘local economies are underpinned by retail which is a provider of employment, skills development and goods and services people need and want. Where there is retail there is a multiplier effect for other consumer facing enterprises.’
- 9.36 The information submitted as part of this application indicates that it is expected to employ over 65 full and part time staff. The employment opportunities to be generated by the proposed development are a key benefit of the proposed development.

#### Flood Risk and Surface Water Management

- 9.37 The Environment Agencies mapping software confirms that the application site is within Flood Zone 1 with a less than 0.1% annual probability of flooding. The Environment Agency has raised no objections in regards to flooding on the site.
- 9.38 Section 4.1 of the submitted Glanville Flood Risk Assessment, dated July 2018, indicates that it is not proposed to use infiltration drainage at the site. Therefore, the Environment Agency has made no further comments with respect to surface water management.
- 9.39 SCC Flood and Water Management Team, have confirmed that the details contained within the Glanville Flood Risk Assessment are acceptable, and therefore have recommended approval subject to conditions to conditions requiring the measures

detailed in the document to be implemented, SUDS information to be submitted, and a Construction Surface Water Management Plan being submitted.

#### Impact on Residential Amenity

- 9.40 The Head of Environmental Health Officer has expressed concern over the potential impact on the neighbours to the south from plant, customer vehicles and voices, the ordering system and delivery vehicles. 9.41 As such, it was considered appropriate to require the applicant to undertake further assessment of the potential noise sources and to control noise levels through either specific mitigation or building design.
- 9.42 The applicant has subsequently submitted an Environment Noise Assessment. The report details the mechanical services equipment, which will be located on the roof of the restaurant, including their location and noise output. The submitted report details a mitigation scheme which they consider would adequately control plant noise and prevent any adverse impact for the neighbours.
- 9.43 In addition, the report has assessed the noise created by customers using the car park and Drive Thru Lane, including the Customer Order Display. The report details that the noise levels when compared to the ambient soundscape would have no adverse impact.
- 9.44 The report has also assessed the likely impact during deliveries to the restaurant. It has concluded that when assessed in accordance with BS4142, the noise levels are sufficiently low to have less than an adverse impact, even during the night.
- 9.45 At the time of writing this report the Council's Environmental Health Officer has been unable to provide comment on the submitted Assessment, however, it is expected that these will be supplied in an accompanying later paper. If the proposed were to be considered acceptable, then it would be subject to the comments of the Council's Environmental Health Officer being provided.

#### Design and appearance considerations,

- 9.46 The design of the proposed development is heavily user led with the design of commercial unit responding to the requirements of the prospective. With the developer describing the proposal in the following way:

*"The two storey building will provide a striking presence on the corner plot of the site, providing a landmark building on one of the main routes into the town. The wider area is considered of particularly low quality design, the proposed building will provide a high quality finish enhancing the wider Kirkely Rise redevelopment, encouraging investment into the wider site.*

*Careful consideration has been given to the orientation of the building and its siting. Given the drive-thru function of the building the drive-thru lane has to orientate the building clockwise to ensure the building remains on the right hand side of the car, the drivers side. The building has been located at the corner of the site to provide a landmark building and presence on the route into and out of Lowestoft. Landscaping is provided to enhance the frontages to Mill Road and Kirkley Rise, as detailed on the accompanying landscape plan.*

*The building is modern in appearance, replicating the scale and massing of the existing buildings, providing a functional space to serve customers eating at the restaurant with table service and counter service, and provide takeaway from the counter and drive-thru lane. Some seating is provided on the ground floor, which includes the main counter, kitchen and back of house facilities, with the main area of customer seating on the upper floor. Life and stair access is provided with facilities at both levels. Extraction, filtration, heating and potentially photovoltaics are provided for in an enclosed area on the roof.”*

- 9.47 The scheme as originally submitted was not considered to create an overly active frontage to the street scene given the positioning of the unit in order to accommodate the drive-thru layout. Following discussion with officers the applicant has sought to amend the design of the proposal, in order to introduce additional first floor windows in the western elevation. It is considered that the introduction of these windows creates a more attractive and active frontage to the unit and therefore overcomes the concerns initially held.
- 9.48 The site currently comprises of a vacant petrol filling station, which is in a poor state of repair and is in officer’s opinion a negative visual impact on the street scene. Overall it is considered that the proposed development is one that would enhance the character and appearance of the area, given that the existing development on the site. In addition, whilst the design is one that is of a set spec, it is considered that it would create more of a ‘landmark’ building given the prominence and existing appearance of the site. Therefore the design of the building is considered acceptable and conforms to the requirements of paragraph 130 of the NPPF (2018).

#### Conservation (including Archaeology)

- 9.49 The site is not located within the South Lowestoft Conservation Area, although, it is within close proximity of it. Limited views of the site of the site available from within the conservation area, especially, along Grosvenor Road and Windsor Road. Paragraphs 193-196 of the NPPF require the LPA assess the likely impact arising from development and assess the significance of the harm caused to the heritage asset.
- 9.50 The proposed building would largely be screened by existing mature foliage to the east of the application site. In addition, the orientation and positioning of the building towards the north of the site will further limit views of the building from within the Conservation Area. It is also noted that the site currently could be considered to have a relatively negative impact on the conservation area given its current state and visual impact.
- 9.52 Therefore for the reasons given above it is considered that the proposal has a less than substantial impact on the setting of the Conservation Area, and thereby its limited impact could be outweighed by any potential benefits of the proposal. The Council’s Principal Design and Conservation Officer has assessed the application and considers that there are no material conservation issues with this proposal
- 9.53 Whilst the application site is located within an Archaeological Site of Regional Importance, Suffolk County Council Archaeological Service has confirmed that the proposed development will not give rise to any significant impacts upon known archaeological sites or area with archaeological potential.

- 9.54 The proposed development is considered sustainably designed in accordance with Policies CS02, DM02 and DM30 of the Waveney Development Plan.

#### Transport and Access

- 9.55 The application is accompanied by a Transport Statement which confirms that any increase in traffic resulting from the proposed development will not be significant to the existing traffic flows.
- 9.56 The Statement demonstrates that during the weekday morning and evening peak the additional traffic impact would be just a few vehicles on each arm of the roundabout. The proposed traffic impact would be equivalent to a 1.8% increase on the A12 south during the AM peak and 2.5% increase on the A12 North during the PM peak. The report identifies that this level of traffic is below the 5% typical daily variation in flows, which would be expected in any event. It is concluded that the proposal would have no material impact on the operation of the roundabout.
- 9.57 Suffolk County Council Highway Officers confirm that whilst the proposed development will create additional vehicle movements, when considered in relation to the existing vehicle flows on this part of the network and also taking into account the previous use, the increase is not considered significant enough to result in a severe impact.

- 9.58 This site offers good access via sustainable travel modes which will help to mitigate the potential impact from this site. Encouraging access to the site for occupants by sustainable modes of travel can be secured by through the implementation of the draft Travel Plans to be secured by condition.

#### Ecology and Landscaping

- 9.59 The application site comprises mainly buildings and areas of hardstanding, albeit patches of scrub, tall ruderal vegetation and semi-improved grassland are also present in places. These habitat types have been characterised to be of low biodiversity value and the site as a whole has been assessed by the applicant's Ecological Consultants as having limited potential to support protected species.
- 9.60 The Councils Tree and Landscape Officer has assessed the proposal, and considers that none of the trees which are to be removed are suitable for a TPO, and that the proposed replacements are a good choice for the site. Therefore no objections were raised, subject to conditions requiring the proposed landscaping to be implemented in full.
- 9.61 The site has a row of mature, un-protected trees along the eastern boundary. In order to ensure that the trees are properly protected during the construction phase, it is considered necessary to impose a condition requiring tree protection measures to be submitted. As such it is officer opinion that the provision of additional landscaping will deliver environmental improvements to an urban environment of poor visual and environmental quality.
- 9.62 The mature trees located adjacent to the application site on its southern and eastern boundary are unaffected by the proposed development and will be protected during the demolition and construction phase. The need to protect retained trees during the

construction of the proposed development and methods by which to limit potential disturbance to protected species during construction set out within the Submitted Ecological Report may be secured by way of condition.

#### Ground Conditions

- 9.63 The site's previous use as a petrol filling station has the potential to give rise to ground contamination. A Ground Investigation Report has been undertaken by the applicant's engineers who propose the assessment and removal of any identifiable contamination together with the application of chemical reagents to enhance the rate of in-situ hydrocarbon degradation.
- 9.64 The Council's Environmental Health Officer has confirmed that the methodology for identifying the magnitude and severity of any ground contamination and the necessary methods for remediating the site may be secured by standard planning conditions.

#### Economic Benefits

- 9.65 The submitted information states that the proposal would create 65 full and part time staff if permission were to be granted. In addition, whilst likely minimal, it is considered that construction of the restaurant could provide additional employment. It is part of the councils and the NPPFs rhetoric to encourage job creation where it conforms to the requirements of local and national policy. It is considered that the proposal provides a good level of job creation and thereby economic benefit to the local area.

### **10 CONCLUSION**

- 10.1 The proposed development brings back into vital and viable use a prominent and largely redundant brownfield site within the defined development limits of South Lowestoft.
- 10.2 The proposals will bring about the physical regeneration and environmental upgrade of the site to deliver employment generating uses in general compliance with AAP site specific Policy SSP5.
- 10.3 The proposed town centre uses have been sequentially tested and no sequentially preferable sites have been identified as being suitable or available and therefore capable of accommodating the proposed development.
- 10.4 The layout of the site and the design of its buildings have responded to the requirements of the intended operators and deliver a development which is considered acceptable.
- 10.5 The environmental impacts of the development are not considered significant and are capable of being controlled to an acceptable level through proposed mitigation and the recommended planning conditions.
- 10.6 The proposed development is considered in general conformity with the Development Plan and is beneficial economic development in its own right for which there is a National presumption in favour.



## 11 RECOMMENDATION

It is recommended, subject to comments being submitted by the Environmental health Officer, that the application be approved subject to the following conditions:

1. The development hereby permitted shall be begun within a period of three years beginning with the date of this permission.

Reason: In accordance with Section 91 of the Town and Country Planning Act 1990 as amended.

2. The development hereby permitted shall be carried out in accordance with the following approved drawings for which permission is hereby granted:
  - Block Plan; 7407-SA-8335-P002C; received 20/08/2018
  - Site Layout Plan - As Proposed; 7407-SA-8335-P004D ; received 20/08/2018,
  - Elevations & Section; 7407-SA-8335-P005B; received 20/08/2018,
  - Floor & Roof Plans; 7407-SA-8335-P006B; received 20/08/2018,
  - Landscape Plan; 7407-SA-8335-P007D; received 20/08/2018,
  - Store Travel plan; dated March 2018, received 19/06/2018,
  - Ground Investigation Report; dated April 2016; received 19/06/2018,
  - Previous Document Review by Pam Brown; dated 20/04/2018; received 19/06/2018,
  - Environmental Assessment Report; dated August 2013; received 19/06/2018,
  - Environmental Monitoring Report; dated February 2013; received 19/06/2018,
  - GRP Kiosks and Enclosures Details; received 19/06/2018,
  - Extended Phase 1 Habitat Survey; dated May 2018; received 19/06/2018,
  - Outside seating and decoration details; RANGE EUROLINE 3 - MIX 2015; received 19/06/2018,
  - Play Frame Details; E09-004 Outdoor Climb 3x3; received 19/06/2018,
  - Lighting Details; O-1640078; received 19/06/2018,
  - COD Canopy Details; received 19/06/2018,
  - Landscaping Plan; MK MCD NB8335 01; received 19/06/2018,
  - Flood Risk Assessment; MD4180149/KLJ/004; dated 06/07/2018; received 10/07/2018,
  - Transport Statement; received 21/06/2018
  - Arboricultural Impact Assessment; dated 07/05/2018; received 21/06/2018

Reason: To secure a properly planned development.

3. No part of the development shall be commenced until details of the proposed access (including the position of any gates to be erected and visibility splays provided) have been submitted to and approved in writing by the Local Planning Authority. The approved access shall be laid out and constructed in its entirety prior to any other part of the development taking place.  
Thereafter the access shall be retained in its approved form.

Reason: To ensure that the access is designed and constructed to an appropriate specification and made available for use at an appropriate time in the interests of highway safety.

Comment: Dropped kerb pram crossing required to be incorporated into the entrance. Although Kirkley Rise is a private road there is a public right of way (PROW), Lowestoft Public Footpath 28 (FP28), located within the footway through which the vehicular access to this site is to be formed. this condition is therefore required to provide dropped kerbs on the route of FP28.

4. Condition: The use shall not commence until the area(s) within the site shown on Drawing Number 7407-SA-8335-P004-C for the purposes of [LOADING, UNLOADING,] manoeuvring and parking of vehicles has been provided and thereafter that area(s) shall be retained and used for no other purposes.

Reason: To ensure that sufficient space for the on site parking of vehicles is provided and maintained in order to ensure the provision of adequate on-site space for the parking and manoeuvring of vehicles where on-street parking and manoeuvring would be detrimental to highway safety to users of the highway.

6. The areas to be provided for storage of Refuse/Recycling bins as shown on drawing number 7407-SA-8335-P004-D shall be provided in its entirety before the development is brought into use and shall be retained thereafter for no other purpose.

Reason: To ensure that refuse recycling bins are not stored on the highway causing obstruction and dangers for other users.

7. No development approved by this planning permission (or such other date or stage in development as may be agreed in writing with the Local Planning Authority), shall take place until a scheme that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the Local Planning Authority:

- 1) A preliminary risk assessment which has identified:

- all previous uses
- potential contaminants associated with those uses
- a conceptual model of the site indicating sources, pathways and receptors
- potentially unacceptable risks arising from contamination at the site.

- 2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

- 3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

- 4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.

8. No occupation of any part of the permitted development shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a "long-term monitoring and maintenance plan") for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.

9. No development should take place until a long-term monitoring and maintenance plan in respect of contamination including a timetable of monitoring and submission of reports to the Local Planning Authority, shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that all long-term remediation works have been carried out and confirming that remedial targets have been achieved shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.

10. If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason: To protect and prevent the pollution of the water environment (particularly groundwater associated with the underlying Secondary and Principal Aquifers, from potential pollutants associated with current and previous land uses) in line with National Planning Policy Framework (NPPF; paragraphs 109 and 121), EU Water Framework Directive, Anglian River Basin Management Plan and Environment Agency Groundwater Protection Position Statements (2017) A4 - A6, J1 - J7 and N7.

11. Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason: Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of groundwater.

12. The strategy for the disposal of surface water and the Flood Risk Assessment (FRA) (dated 06/07/2018, ref: MD4180149/KLJ/004 Issue 2) shall be implemented as approved in writing by the local planning authority. The strategy shall thereafter be managed and maintained in accordance with the approved strategy.

Reason: To ensure that the principles of sustainable drainage are incorporated into this proposal, to ensure that the proposed development can be adequately drained

13. The building hereby permitted shall not be occupied until details of all Sustainable Urban Drainage System components and piped networks have been submitted, in an approved form, to and approved in writing by the Local Planning Authority for inclusion on the Lead Local Flood Authority's Flood Risk Asset Register.

Reason: To ensure all flood risk assets and their owners are recorded onto the LLFA's statutory flood risk asset register as per s21 of the Flood and Water Management Act.

14. No development shall commence until details of a Construction Surface Water Management Plan (CSWMP) detailing how surface water and storm water will be managed on the site during construction (including demolition and site clearance operations) is submitted to and agreed in writing by the local planning authority. The CSWMP shall be implemented and thereafter managed and maintained in accordance with the approved plan for the duration of construction. The approved CSWMP and shall include:

1. Method statements, scaled and dimensioned plans and drawings detailing surface water management proposals to include :-
  - i. Temporary drainage systems
  - ii. Measures for managing pollution / water quality and protecting controlled waters and watercourses
  - iii. Measures for managing any on or offsite flood risk associated with construction

Reason: To ensure the development does not cause increased flood risk, or pollution of watercourses in line with the River Basin Management Plan

16. The mitigation measures outlined in the hereby approved Extended Phase 1 Habitat Survey, dated May 2018, and received 19/06/2018, for protecting protected species during the construction of the approved development shall be implemented in their entirety in accordance with the timeframes outline within the Survey.

Reason: In the interests of nature conservation

17. Prior to there first use on site, details of all external facing and roofing materials shall be submitted to and approved by the Local Planning Authority. Development shall be carried out in accordance with the approved details.

Reason: To ensure the satisfactory external appearance of the development.

18. All hard and soft landscape works shall be carried out in accordance with the approved details set out on drawing MK MCD NB8335 01. The works shall be carried out prior to the occupation of any part of the development or in accordance with the programme agreed with the Local Planning Authority; and any trees or plants which, within a period of five years from completion of the development, die, are removed or become seriously damaged or diseased, shall be replaced in the next planting season with others of similar size and species unless the Local Planning Authority gives written consent to any variation; all works shall be carried out in accordance with the relevant provisions of appropriate British Standards or other recognised Codes of Good Practice.

Reason: to ensure that the appearance of the development is satisfactory

19. No development shall take place until the existing trees on and adjacent to the site, hereby agreed with the Local Planning Authority to be retained, have been protected by the erection of temporary protective fences of a height, size and in positions which shall previously have been agreed, in writing, with the Local Planning Authority. The protective fences shall be retained throughout the duration of building and engineering works in the vicinity of the tree to be protected. Any trees dying or becoming severely damaged as a result of any failure to comply with these requirements shall be replaced with trees of appropriate size and species during the first planting season, or in accordance with such other arrangement as may be agreed in writing with the Local Planning Authority, following the death of, or severe damage to the trees.

Reason: For the avoidance of damage to protected trees included within the landscaping scheme in the interests of visual amenity and the character and appearance of the area.

20. Notwithstanding the provisions of the Town and Country General Permitted Development Order 2015 (as amended) and the Town and Country Planning (Use Classes) Order 1987 (as amended), or any order revoking and re-enacting that Orders

(with or without modification), the unit hereby permitted, shall be used for uses only falling within Class A3 and/or Class A5 of the Order(s).

Reason: To secure a properly planned development

21. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) approved by this planning permission, shall take place until a site investigation consisting of the following components has been submitted to, and approved in writing by, the local planning authority:
  - 1) A desk study and site reconnaissance, including:
    - a detailed appraisal of the history of the site;
    - an inspection and assessment of current site conditions;
    - an assessment of the potential types, quantities and locations of hazardous materials and contaminants considered to potentially exist on site;
    - a conceptual site model indicating sources, pathways and receptors; and
    - a preliminary assessment of the risks posed from contamination at the site to relevant receptors, including: human health, ground waters, surface waters, ecological systems and property (both existing and proposed).
  - 2) Where deemed necessary following the desk study and site reconnaissance an intrusive investigation(s), including:
    - the locations and nature of sampling points (including logs with descriptions of the materials encountered) and justification for the sampling strategy;
    - explanation and justification for the analytical strategy;
    - a revised conceptual site model; and
    - a revised assessment of the risks posed from contamination at the site to relevant receptors, including: human health, ground waters, surface waters, ecological systems and property (both existing and proposed).

All site investigations must be undertaken by a competent person and conform with current guidance and best practice, including BS10175:2011+A1:2013 and CLR11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

22. No development (including any construction, demolition, site clearance or removal of underground tanks and relic structures) approved by this planning permission, shall take place until a detailed remediation method statement (RMS) has been submitted to, and approved in writing by, the LPA. The RMS must include, but is not limited to:
  - details of all works to be undertaken including proposed methodologies, drawings and plans, materials, specifications and site management procedures;
  - an explanation, including justification, for the selection of the proposed remediation methodology(ies);
  - proposed remediation objectives and remediation criteria; and
  - proposals for validating the remediation and, where appropriate, for future maintenance and monitoring.

The RMS must be prepared by a competent person and conform to current guidance and best practice, including CLR11.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

23. Prior to any occupation or use of the approved development the RMS approved under condition 21 must be completed in its entirety. The LPA must be given two weeks written notification prior to the commencement of the remedial works.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

24. A validation report must be submitted to and approved in writing by the LPA prior to any occupation or use of the approved development. The validation report must include, but is not limited to:

- results of sampling and monitoring carried out to demonstrate that the site remediation criteria have been met;
- evidence that the RMS approved under condition 2 has been carried out competently, effectively and in its entirety; and
- evidence that remediation has been effective and that, as a minimum, the site will not qualify as contaminated land as defined by Part 2A of the Environmental Protection Act 1990.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

25. In the event that contamination which has not already been identified to the Local Planning Authority (LPA) is found or suspected on the site it must be reported in writing immediately to the Local Planning Authority. Unless agreed in writing by the LPA no further development (including any construction, demolition, site clearance, removal of underground tanks and relic structures) shall take place until this condition has been complied with in its entirety.

An investigation and risk assessment must be completed in accordance with a scheme which is subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and conform with prevailing guidance (including BS 10175:2011+A1:2013 and CLR11) and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority.

Where remediation is necessary a detailed remediation method statement (RMS) must be prepared, and is subject to the approval in writing of the Local Planning Authority. The RMS must include detailed methodologies for all works to be undertaken, site management procedures, proposed remediation objectives and remediation criteria. The approved RMS must be carried out in its entirety and the Local Planning Authority must be given two weeks written notification prior to the commencement of the remedial works. Following completion of the approved remediation scheme a validation report that demonstrates the effectiveness of the remediation must be submitted to and approved in writing by the LPA.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

**Informatives:**

1. It is recommended that a check of the buildings and vegetation for nesting birds is undertaken prior to work commencing. Nesting birds are protected by the Wildlife and Countryside Act (1981). It is therefore recommended that any works take place outside the nesting season. If birds are encountered advice should be sought from a suitably qualified ecologist on how best to proceed.
2. The Local Planning Authority has assessed the proposal against all material considerations including planning policies and any comments that may have been received. The planning application has been approved in accordance with the objectives of the National Planning Policy Framework and local plan to promote the delivery of sustainable development and to approach decision taking in a positive way.

**BACKGROUND INFORMATION:**

See application ref: DC/18/2576/FUL at  
[www.eastsuffolk.gov.uk/public-access](http://www.eastsuffolk.gov.uk/public-access)

**CONTACT**

Matthew Gee, Planning Officer, 01502 523021,  
matthew.gee@eastsuffolk.gov.uk