



## Appeal Decision

Site visit made on 14 December 2021

**by Zoe Raygen DipURP MRTPI**

**an Inspector appointed by the Secretary of State**

**Decision date: 22<sup>nd</sup> December 2021**

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**Appeal Ref: APP/Z2505/W/21/3278083**

**Shore Yard, Shore Road, Freiston, Boston, PE22 0NA**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by F W Marshall & Sons against the decision of Boston Borough Council.
  - The application Ref B/20/0482, dated 3 December 2020, was refused by notice dated 29 April 2021.
  - The development proposed is Change of Use of greenhouse to storage and the Change of Use of poultry building to half storage half light vehicle repairs at Shore Yard, Shore Road, Freiston, Boston, PE22 0NA.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. I have used the description of development from the appellant's appeal form and the Council's decision notice as this more accurately describes the proposed development than that on the application form.
3. The Council includes four reasons for refusal on its decision notice. However, two of these are identical and therefore I have considered the three distinct issues in this decision.

### Main Issues

4. The main issues are:
  - the effect of the proposal on the occupiers of residential properties on Shore Yard and Drove Road with particular regard to noise;
  - the effect of the proposal on the character and appearance of the area; and
  - whether or not the appeal site is an appropriate location for the proposed development.

### Reasons

#### *Living conditions*

5. The adjacent dwelling forms a bungalow with a high close boarded fence around its rear garden. The proposed use of the appeal site is for car repairs in the existing building, together with the storage of old cars in the former glasshouses to the rear and the dismantling of those cars to be used for the repairs, before being taken to the scrapyards. There is though very little

- information regarding the level of use and the number of cars being repaired and taken to the site other than there would be only one employee.
6. At the time of my site visit I found it to be a very quiet area, apart from a low hum of noise from the adjacent storage building and the very occasional passing car, neither of which were intrusive. The proposal has the potential to introduce a use into the area which could cause noise to the detriment of the living conditions of the residents of the neighbouring property, which is close to the appeal site, particularly through the use of the building for car repairs.
  7. In this regard, I note the objection of the Council's Environmental Health Officer who states that vehicle repairs can have an element of metal working (grinding, hammering) and often use pneumatic tools with compressors which can be noisy and as this is a very quiet rural area this may well impact neighbouring residential amenity despite them taking place in a building.
  8. The appellant makes a comparison with the previous use of the building for agricultural storage and the consequent continuous farm activity, and the current farm activity, which is considered to be louder than that generated by the proposed use. However, I have no robust information regarding the noise levels of previous or existing activity in the form of an acoustic report to evidence this. Furthermore, while the car repair machinery may well not be in continuous use or used every day, without any substantive evidence before me of noise levels I am not satisfied that their use, even within the building, would not cause material harm to neighbouring residents. Moreover, while the appellant states the repairs would be limited to one vehicle at a time this may not be the case in the future should the business be successful.
  9. The Council refers to other residential properties along Shore Yard and Drove Road. However, there is considerable intervening distance to these properties and therefore I am of the view that there would be no material harm caused to those residents' living conditions.
  10. In the absence of any robust evidence to indicate otherwise, for the reasons above, I conclude that the proposal would be harmful to the living conditions of the immediate neighbouring residents with particular regard to noise. There would therefore be conflict with policies 2, 3, 7 (a) and 30 of the South East Lincolnshire Local Plan (2011-2036) (the SELLP) and section 12 of the National Planning Policy Framework. These require that the amenities of residents are protected and are of a high standard.
  11. The Council also refers to Policy 1 of the SELLP in its reason for refusal. However, this refers to the Spatial Strategy rather than resident's living conditions, so it has not been determinative in this matter.

#### *Character and appearance*

12. There would be no alterations to the building on the appeal site. Cars for dismantling would be stored on an area of hardstanding to the rear of the site where the existing glasshouses are. This area is well screened by existing buildings and landscaping. As a result, while there may be some glimpsed views from the road as drivers pass by, these would not be significant in the wider area, or sustained.
13. I acknowledge that the surrounding area is predominantly rural in nature with sporadic residential properties and agricultural buildings. While a car repair and

car storage use may be unusual in the area, given the specific characteristics of the appeal site and its limited size, there would be no harm to the overall character and appearance of the area.

14. For the reasons above, I conclude that there would be no harm to the character and appearance of the area. There would therefore be no conflict with Policies 2, 3 and 7 (b) and (c) of the SELLP and the Framework which require that development is of high quality design that takes account of the character and appearance of the area and is responsive to local context.

#### *Location*

15. Policy 7 of the SELLP allocates sites for employment in line with the settlement hierarchy in Policy 1. New employment development outside of allocations will be supported provided that the proposal involves the re-use of previously developed land *or* the conversion or reuse of redundant buildings. As an agricultural building the site is precluded from being previously developed land by the definition contained in the Framework. Furthermore, there is nothing substantive before me to suggest the building for conversion is redundant.
16. Policy 7 goes on to outline a number of criteria which a proposal must meet if there is no suitable building capable of conversion or previously developed land is not available. I acknowledge that this proposal, in isolation, is unlikely to impact on the viability of delivering allocated employment sites elsewhere, and therefore there would be no conflict with criterion (e). However, even if I accept that there are no other suitable buildings, there is no substantive evidence before me to demonstrate that it is needed in this countryside location as required by criterion (g).
17. The Highway Authority raises no objection to the proposal in terms of highway safety. However, while the appeal site is located in a very small cluster of buildings, it is nevertheless in the open countryside, a considerable distance from any settlement to which development is directed. It would be accessed via narrow unlit country lanes, meaning that access to the site would be heavily dependent on the car, and particularly so given the proposed use. Opportunities for modal shift, as required by criterion (f) therefore appear limited.
18. The remaining criteria, namely (a),(b) and (c) relate to impact on residents' living conditions and the character and appearance of the area which I have already reached conclusions on above. While acceptable in some regards, taken as a whole there would be conflict with Policy 7.
19. Policy 1 of the SELLP sets out a hierarchical approach to the location of new development in order to direct development to the most sustainable locations . All land outside of the defined settlement boundaries is designated as countryside where development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The appellant identifies that the needs for the business are simply a workshop space with vehicle access and an area for cars to be temporarily stored. There is no need for any form of street presence from which cars can be sold, nor is there any need for highways infrastructure which can support a large number of comings and goings. The proposal is for a small-scale operation with minimal requirements more in line with domestic hobby

related car repairs. However, this does not suggest that a location within the open countryside is a pre-requisite for the operation of the business, and such a property could not be found within a settlement to where development is directed. Furthermore, I have no substantive evidence to suggest that, given the scale of the proposal and its relationship to defined settlements, it would provide particular quantified economic, community or environmental benefits demonstrated to be needed in the local area to justify the location here.

20. For the reasons above, I conclude that the proposal would not be an appropriate location for the proposed development as it would conflict with the requirements of Policies 1 and 7 of the SELLP.

### **Conclusion**

21. Although there would be no harm to the character and appearance of the area, the proposal would conflict with locational policy and would be harmful to resident's living conditions contrary to the development plan as a whole. There are no relevant material considerations that would outweigh the conflict with the development plan.
22. Therefore, for the reasons given, I conclude that the appeal should be dismissed.

*Zoe Raygen*

INSPECTOR