

Development Management Delegated Decision Report

B/20/0482



SUMMARY OF APPLICATION			
Application Reference	B/20/0482		
Application Type	Full Planning Permission		
Proposal	Change of Use of greenhouse to storage and the Change of Use of poultry building to half storage half light vehicle repairs		
Location	Shore Yard, Shore Road, Freiston, Boston, PE22 0NA		
Applicant	Nigel Marshall, F W Marshall & Sons		
Agent			
Received Date:	03-Dec-2020	Consultation Expiry Date:	04-Apr-2021
Valid Date:	08-Mar-2021	Statutory Expiry Date:	03-May-2021
Date of Site Visit:	12-Mar-2021	Extension of Time Date:	
Objections received?	Yes		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Cllr P Bedford	15/04/21	In agreement with the recommended decision – 15/04/21	Ok
Cllr J Welbourn	15/04/21	In agreement with the recommended decision – 15/04/21	Ok
Recommendation	REFUSE		
Report by:	Grant Fixter		
Date:	26/04/2021		



OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located off the eastern side of Shore Road, Freiston and as per the South East Lincolnshire Local Plan, the site is within the countryside. The site comprises an outbuilding with a hardstanding apron to its frontage, in addition to an area of hardstanding and redundant glasshouse structures. At the time of the site visit there were a number of disused vehicles on site with no tyres on. Regarding immediate surroundings, there is an agricultural field to the north and west, with land under the applicants to the east and south which comprises glasshouses and an agricultural store. There is also a residential dwelling immediately to the south. The wider area is predominantly agricultural, with sporadic frontage residential development along Shore Road and Drove Road.

DETAILS OF PROPOSAL:

This application seeks Full Planning Permission for the change of use of the greenhouse to storage and the change of use of the poultry building to half storage/ half light vehicle repairs.

The site is subject to previous enforcement discussions but these have no weight or bearing on the determination of this application.

Concerns were raised with the agent regarding the level of information within the submission, in addition to what the exact proposed use of the site is. Subsequent discussions followed where the agent stated that to their knowledge the proposed use would be:

- Letting the unit out to a mechanic who wants to obtain used cars and repair them;
- Second hand vehicles may be required for parts;
- Once these vehicles are past their use, parked on area of hardstanding where former glasshouses are;
- Would not be kept in vast quantity and would eventually be taken off to a scrapyard;
- Repairs will be in the workshop.

The above and the level of information within the submission is discussed further in the evaluation section of this report.

The following plans and documents were submitted:

- 21-197-Ex-01 - Location Plan and Existing and Proposed Block Plans;
- 21-197-Ex-02 Rev A - Existing Plans and Elevations;
- 21-197-Pr-01 - Rev A Proposed Plans and Elevations and Noise Impact Assessment;
- 21-197-Pr-02 - Rev A Existing and Proposed Glasshouse Elevations.

RELEVANT HISTORY:

B/20/0465 - Prior Notification for the proposed change of use of part of agricultural barn to light vehicle repairs – Withdrawn on 01/12/20.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2011-2036)

The following policies contained within the South East Lincolnshire Local Plan (2011-2036) (i.e. SELLP) are relevant to this application:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development;
- Policy 4: Approach to Flood Risk;
- Policy 7: Improving South East Lincolnshire's Employment Land Portfolio;
- Policy 28: The Natural Environment;
- Policy 30: Pollution;
- Policy 31: Climate Change and Renewable and Low Carbon Energy;
- Policy 36: Vehicle and Cycle Parking.

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2019)

At the heart of the 2019 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 2: Achieving sustainable development;
- Section 4: Decision-making;
- Section 6: Building a strong, competitive economy;
- Section 11: Making effective use of land;
- Section 12: Achieving well-designed places;
- Section 14: Meeting the challenge of climate change, flooding and coastal change.

CONSULTATION RESPONSES:

RSPB

Did not respond.

Freiston Parish Council

Object on the following grounds:

- Hazardous waste storage and disposal;
- Level of noise in this quiet rural location;
- Breaking of cars and dismantling on site;

- Selling of cars from the roadside and details withheld on proposed type of material to be stored on the site.

Witham Fourth IDB

Have no objections and made the following comments:

- A Board maintained watercourse exists on the east boundary of the site and to which BYELAWS and the LAND DRAINAGE ACT applies;
- Board's consent is required to discharge surface and treated water to the watercourse, as well as any plans to culvert, pipe or bridge the watercourse.

Lincolnshire County Council

Have no objections as access and parking arrangements remain unchanged, therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

Environmental Health

Object on the following grounds:

- Query what is meant by "light vehicle repairs" and as far as they know vehicle repairs are B2 use;
- Query B2 use in this location and that there are more suitable sites elsewhere but acknowledge this is a policy matter;
- Relatively isolated but one direct neighbour of the site;
- Vehicle repairs can have 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;
- The applicant indicates the noise from the proposed activities will not increase noise beyond that existing at the site however there is no supporting evidence for this, for example an acoustic report;
- How do we control the activity level in future in any meaningful or enforceable manner?

THIRD PARTY REPRESENTATIONS RECEIVED:

As a result of the publicity, one objection was received from the occupiers of Mossdales, Shore Road, Freiston and their objection is summarised below:

- Vehicle dismantling and scrap car collection has been happening at the site for the past year;
- Vehicles for sale left on the side of the road;
- Wants to rent out the shed to a scrap metal dealer who is dismantling vehicles in and around the shed;
- Do not want the area turned into car dismantling area;
- Parts have been sold on facebook marketplace;
- Thinking of economics and not the neighbours or surrounding environment.

Where deemed material planning considerations, the above will be discussed throughout the evaluation section. Personal comments about the applicant and future occupier, however, are not relevant and do not form material planning considerations, so no weight will be given to these.

EVALUATION:

The key considerations in regard to this application are set out below:

- Principle of development;
- Impact on the character and appearance of the area;
- Impact on amenity;
- Flood risk;
- Highway safety and parking.

Prior to discussing the above material considerations, it is important to set out what the Council believes to be the proposed use of the site based on the information submitted and subsequent discussions with the agent.

Firstly, there has been significant interest as to whether the site has been/ will be used as a scrapyard. If it was concluded the use of the site was for a scrapyard, the site would technically be classed as a waste site and this would require an application to Lincolnshire County Council, as this would be a County matter and not something the Council could make a decision on. We have assumed, however, the details submitted are correct and as such, the Council is in a position to make a decision and have treated the application at face value.

The level of information within the submission was of concern as it was not abundantly clear what the site was to be used for. The title of the proposal is for change of use of storage and change of use for half storage and half light vehicle repairs. The air quality assessment states it will be a flexible commercial use and the outside area will be used for vehicle storage. The Noise Impact Assessment states the works carried out in the workshop will be limited to single vehicles being repaired within the workshop for resale. Finally, the proposed block plan has the annotation "*Existing concrete hardstanding to be used as temporary storage of vehicles to be scrapped*".

The agent was subsequently contacted outlining a number of concerns, in particular the exact use of the site, to which they confirmed:

- Letting the unit out to a mechanic who wants to obtain used cars and repair them;
- Second hand vehicles may be required for parts;
- Once these vehicles are past their use, parked on area of hardstanding where former glasshouses are;
- Would not be kept in vast quantity and would eventually be taken off to a scrapyard;
- Repairs will be in the workshop.

It was, however, deemed that after these discussions there were still concerns regarding a number of aspects which could impact amenity and were missing from the submission.

From the above bullet point list and the subsequent discussions, it was important to establish whether the proposal was for motor vehicle repairs or a sui generis use. Should the proposal have been just for car breaking, it is likely the use class would not fall under sui generis use but it would have been a County matter. It is clear, however, the proposal goes beyond this and will be part repairs, part breaking and part scrap/ storage. As one of the outlined uses is sui generis, the whole proposal is, therefore, sui generis. Furthermore, as no details have been submitted to establish the volume of vehicles, how many second hand vehicles will be brought in, how many will be part stripping and stored on the site, how long they will be on site for, what light vehicle repairs means, it is not possible to determine whether one is incidental to the other.

For those reasons, there is insufficient information to truly establish the exact extent of works on site and the proposal is considered a sui generis use. In turn, it also makes it difficult for the Council to full assess the impacts of the proposal and, as such, the precautionary principle has been adopted to determination.

Principle of development

Policy 1 of the SELLP sets out the settlement hierarchy, stating development will be permitted within the settlement boundaries of the respective settlements providing the proposal supports the designated role of the settlement in which it is to be executed. Applications in the countryside (outside of settlement boundaries) will be approved provided it is necessary to its location and/ or can be demonstrated that it meets sustainable development needs of the area.

SELLP Policy 7 states new business development outside the allocated sites will be supported where they reuse previously developed land and redundant buildings. If there are no suitable buildings capable of conversion or the reuse of previously developed land is not available, the proposal would be acceptable providing there are no adverse impacts on the amenity, character, highway network or the viability of allocated employment sites.

Paragraph 84 of the NPPF acknowledges that local business and community needs in rural areas may sometimes be found adjacent and beyond existing settlements. It supports such developments provided that the development is, amongst other things, **‘sensitive to its surroundings’** (my emphasis). The NPPF also says that ‘the use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged **where suitable opportunities exist**’ (my emphasis).

The NPPF defines ‘previously developed land’ as:

“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed

but where the remains of the permanent structure or fixed surface structure have blended into the landscape.”

The application site comprises of an agricultural building and redundant glasshouses, both of which are to be utilised as part of the proposal. When considering this against the definition of previously developed land within the NPPF, it clearly states the definition excludes land that is currently or previously occupied by agricultural buildings. It is, therefore, deemed the site cannot be classed as previously developed land, so the criteria set out in Policy 7 for proposals and sites such as this are applicable. These are:

- “a. the development does not conflict with neighbouring land uses;*
- b. there is no significant adverse impact upon the character and appearance of the area;*
- c. the design is responsive to the local context;*
- d. there will be no significant adverse impact on the local highway network;*
- e. there will be no significant adverse impact upon the viability of delivering any allocated employment site;*
- f. proposals maximising opportunities for modal shift away from the private car are demonstrated; and*
- g. there is an identified need for the business location outside of identified employment areas on the Policies Map.”*

Whilst parts of these criteria will be discussed in more detail throughout the evaluation section of this report, when assessing the proposal against said criteria:

A – development conflicts with neighbouring land uses (discussed in depth later in the report)

B – concerns on the impact on the character and appearance of the area (discussed in depth later in the report)

C – whilst there are no external changes proposed to the building, the storage of disused, broken vehicles ready for scrapping is not responsive to the local context

D – Highways have no concerns on highway grounds

E – whilst no information has been submitted to clarify this, it could be argued the proposal would not impact the viability of delivering allocated employment sites

F – by virtue of its location and nature of the proposed use, the proposal would be heavily lenient on vehicle movements

G – there has been no identified need for the business to be located outside of the allocated employment areas.

From the above, it is evident the proposal does not comply with the criteria of Policy 7, which heavily weighs against the proposal in respect of the principle of development.

With regard to Policy 1 (d), no evidence has been submitted which shows why the development is ‘necessary to such a location’ other than it re-uses an agricultural

building in a countryside location. The proposal fails to comply with Policy 1 in this respect.

The second part of Policy 1(d) considers the proposed development meets the 'sustainable development needs of the area'; these include environmental, economic and community benefits. From review of the submission, no justification can be seen as to how this proposal meets the sustainable development needs of the area, particularly when considering the concerns around impacts on the community. Again, this will be discussed throughout the report.

It is evident, therefore, that the proposal does not comply with Policies 1 and 7. As such, the principle of development is deemed not acceptable.

Impact on the character and appearance of the area

Policy 2 of the SELLP states that proposals requiring planning permission will be permitted provided that sustainable development considerations are met. These include size, scale, layout, density and impact on the amenity, trees, character and appearance of the area as well as the quality of its design and orientation.

Policy 3 of the SELLP states all development must create a sense of place by respecting the density, scale, visual closure, landmarks, views, massing of neighbouring buildings and the surrounding area.

Whilst no physical changes are proposed to the agricultural building and the storage of vehicles will be where the redundant glasshouses are to the rear of the site, it is important to consider impacts on the character of the area. The character of the area can be impacted by both the visual appearance of the proposal and the form of development.

It has been established that the site will be used to repair, break down and store stripped vehicles prior to them being taken to a formal scrapyard. When viewing the application site, it is abundantly clear this is an extremely rural setting with no such development in the area. Development in the area is limited to sporadic residential development and agricultural holdings, so this form of development will be out of keeping with the character of the area. There is also no justification for this form of development in the area.

Whilst the redundant glasshouses are to the rear of the site, the area will be used for the storage of vehicles prior to them being sent to a scrapyard. Whilst this area is to the rear, it is still clearly visible from the highway. The storage of stripped vehicles would detract from the character and appearance of the area, in addition to some impacts on the street scene. This is also not something you would expect to see in such a rural location with no justification.

In respect of the character of the area, the proposal therefore, fails to comply with criteria a, b, c, f of Policy 7, in addition to being contrary to Policy 2 and 3 of the SELLP.

Impact on amenity

SELLP Policy 2, 3 and 30 seek to ensure that a new development does not significantly impact neighbouring land uses by reason of noise, odour, disturbance or visual intrusion.

Paragraph 127 of the NPPF indicates, inter alia:

‘decisions should ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users...’.

There are no proposed changes to the existing agricultural building which will be used for storage and light vehicle repairs, whilst redundant glasshouses will be used to site the second hand cars/ cars ready for the scrapyards. As such, amenity issues will be limited to the use of the land itself and potential noise impacts.

No information has been submitted on the proposed hours of use, number of vehicles transported to and from the site, in addition to the types of tools to be used. This was raised with the agent who responded to say the use of hand tools required for carrying the repairs out will not generate significant noise to cause any disturbance in this location, whilst surrounding noise from the adjacent agricultural yard would create more disturbance than the use of a socket set, screwdriver or hand power tool within the confines of the building.

Environmental Health objected and raised the following concerns:

“The site is a rural one and whilst it is relatively isolated there is one direct neighbour of the site. Although this property is screened to some extent from the area where vehicle repairs are proposed vehicle repairs can have 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. The applicant had made a statement indicating the noise from the proposed activities will not increase noise beyond that existing at the site however there is no supporting evidence for this, for example an acoustic report.”

There is a noise impact assessment on the proposed plans and elevations, however this is relatively short in nature and when considering the proposal and location, in addition to the lack of information, this is not deemed sufficient.

There is a residential dwelling immediately adjacent to the south, in addition to sporadic frontage residential development to the south of the site and a dwelling east of the site off Drove Road, all of which have the potential for their amenity to be negatively impacted.

No professional acoustic assessment has been carried out or submitted by the applicant so it is difficult to gauge impact or for any condition to be attached to any permission that controls noise disturbance. This is because noise levels that may be generated and the mitigation measures that may be required to limit the noise levels to acceptable levels in order to maintain residential amenity are not known. Furthermore, no weight can be attributed to the impacts arising from the former uses on site as it is clear they have been vacant for some time and there is no clear evidence as to how the site was formerly used in terms of intensity of use and impacts arising such as noise. For those reasons, it is impossible to assess and establish the impacts, let alone consider conditions which may mitigate impacts.

On the basis and on the limited information submitted, it may be the case that this application is likely to cause significant harm to residential amenity, contrary to the SELLP policies identified above.

Flood risk

Policy 4 of the SELLP states a proposed development within an area of flood risk (Flood Zones 2 and 3) will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding, that it is essential infrastructure in FZ3a & FZ3b, it is highly vulnerable development in FZ2 or is more vulnerable development in FZ3 provide wider sustainability benefits to the community that outweigh flood risk. Where supported by a site specific flood specific risk assessment a criteria will need to be adhered to.

The application site is within Flood Zone 3 and is supported by a Flood Risk Assessment.

Firstly, the proposal will utilise the existing buildings on site with no new buildings proposed.

Secondly, 'Table 2: Flood risk vulnerability classification' in the Planning Practice Guidance shows the proposed use of the site to be classed as less vulnerable.

As there is no change in the vulnerability of the uses and the proposal will make use of existing buildings on site, there will be no increase in flood risk. It is deemed the proposal would not increase the flood risk in the area or have an adverse effect on surface water.

Highway safety and parking.

The NPPF indicates that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Policy 2 of the SELLP goes on to confirm this, indicating it is necessary to ensure that development does not have an adverse impact on physical or social infrastructure such as local roads.

Policy 36 of the SELLP sets out requirements for vehicular and cycle parking within developments and appendix 6 sets out specific parking standards for various forms of development.

The proposed site layout does show the provision of parking spaces to the front of the agricultural building and this is deemed sufficient.

Whilst the officer is contrary to the view of that within the submission that the proposal will not lead to an increase in vehicle movements, LCC Highways have no issues with the proposal and vehicle movements would have been a consideration for them. It is important to note this would have been in relation to the impacts on the highway.

Highways neither objected nor had concerns on parking grounds. The proposal is, therefore, acceptable on highway safety and parking grounds.

CONCLUSION:

As always, it is important to consider the planning balance.

From the submission and consultee responses, there are no concerns in relation to flood risk or parking and potential impacts on the highway.

The principle of development has been deemed unacceptable on the grounds the proposal fails to comply with policy 7 which considers new business development outside recognised allocations, and policy 1 as the proposal has not been deemed to be necessary to its location whilst not meeting the sustainable development needs of the area.

The proposal would be detrimental to the character of the area as the form of development is out of keeping with the area, would conflict with surrounding uses and the visual impacts from the storage of stripped vehicles/ cars being used for parts prior to them being transported to a scrapyard.

There are also concerns on amenity grounds given the likely increase in vehicle movements, in addition to a lack of information being provided on hours of use, specific tools to be used, amount of vehicles to be stored on site and the lack of an acoustic report.

Thus, on the basis of the information submitted, it may be concluded the principle of development is not acceptable as no information has been submitted that justifies that the proposed use is required in this location, or meets the sustainable needs of the area in accordance with the requirements of policy 1. No information has been submitted to assess the true noise impact, whilst the proposal would be detrimental to the character of the area and, therefore, is contrary to policies 2, 3 and 30 of the SELLP.

It is therefore recommended that this application is refused.

RECOMMENDATION:

REFUSE

CONDITIONS / REASONS			
Pre-commencement conditions?		Agreed with applicant/agent - Date:	
The application site falls outside of a settlement boundary and is located within the countryside. There is a significant lack of information submitted to provide a sufficient and sound justification for the proposal in this location. The proposal, therefore, has failed to show how it is necessary to its location, meets20/ the sustainable development needs of the area and comply with the requirements of Policy 7 which relates to business development outside allocated employment sites. The development would lead to an inappropriate form of development in an unsustainable location, contrary to the spatial objectives set out in Policy 1 and criteria outlined in Policy 7 of the South East Lincolnshire Local Plan (2011-2036) and principles of sustainable development as advocated by the National Planning Policy			

Framework (2019).
Insufficient information has been submitted that would allow the Local Planning Authority to clearly assess the potential impacts arising from noise pollution on the occupiers of the surrounding residential properties along Shore Yard and Drove Road. In the absence of this information it is not possible to consider appropriate mitigation measures (if required). The proposal is therefore contrary to the objectives of policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan (2011-2036) and sections 6 and 12 of the National Planning Policy Framework (2019).
The form, nature, appearance and characteristics of the proposal would be likely to have harmful impacts in respect of the general amenity, character and appearance of the area. The application contains insufficient information and justification to demonstrate that the proposed use is required in this rural location, and that the impacts and characteristics of this use would be acceptable. The proposal would as a result be contrary to the objectives of Policies 1, 2, 3 and 30 of the South East Lincolnshire Local Plan (2011-2036) and the principles of sustainable development as advocated by the National Planning Policy Framework (2019).
Refused plans:
<ul style="list-style-type: none"> ▪ 21-197-Ex-01 - Location Plan and Existing and Proposed Block Plans; ▪ 21-197-Ex-02 Rev A - Existing Plans and Elevations; ▪ 21-197-Pr-01 - Rev A Proposed Plans and Elevations and Noise Impact Assessment; ▪ 21-197-Pr-02 - Rev A Existing and Proposed Glasshouse Elevations.

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
<u>STATEMENT OF PROACTIVE WORKING:</u> In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2019 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.