

Development Management Delegated Decision Report

B/21/0116



SUMMARY OF APPLICATION			
Application Reference	B/21/0116		
Application Type	Certificate of Lawfulness (proposed use)		
Proposal	Application for a Lawful Development Certificate for the proposed removal of Kalvis Wood Pellet Boilers and installation of 14 Angus Eco Orlan Boilers		
Location	Greenyard Frozen, Marsh Lane, Boston, PE21 7RY		
Applicant	Mr Paul Gibbon, Mistral Energy		
Agent	David Walton, Valley Environmental Consulting Ltd		
Received Date:	11-Mar-2021	Consultation Expiry Date:	15-Apr-2021
Valid Date:	11-Mar-2021	Statutory Expiry Date:	06-May-2021
Date of Site Visit:	23-Mar-2021	Extension of Time Date:	---
Objections received?	No		
5 day notification record: Not applicable			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	ISSUE Lawful Development Certificate		
Report by:	Grant Fixter		
Date:	28/04/2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site comprises Greenyard Frozen off Marsh Lane, Boston. The site is essentially surrounded by development and as per the South East Lincolnshire Local Plan, it is within the settlement boundary for Boston and forms part of the wider BO006 Existing Main Employment Area allocation.

DETAILS OF PROPOSAL:

This application seeks a Lawful Development Certificate for the proposed removal of Kalvis Wood Pellet Boilers and the installation of 14 Angus Eco Orlan Boilers.

The applicant has confirmed the installation of boilers are within the building.

RELEVANT HISTORY:



- B/20/0275 - Application for a Lawful Development Certificate for the proposed removal of E4 CHP Units & Installation of 2no Kalvis Wood Pellet Boilers – Approved on 14/09/2020;
- B/18/0196 - Installation of packaged CHP plants, biomass boilers and erection of 2no 20m external stacks – Approved on 07/11/2018.

RELEVANT LEGISLATION

The Town and Country Planning Act (1990)

- Section 192 – Certificate of lawfulness of proposed use or development.

The Town and Country Planning (General Permitted Development) (England) Order 2015

- Part 7 (Non-domestic extensions, alterations etc.), Class I (developments relating to an industrial process).

CONSULTATION RESPONSES:

Environment Agency

Have no objections.

Environmental Health

“as there is basically no changes to the manner of activity and flues etc. and it is merely a change of gasification boiler Environmental Health have no objections.”

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

An application for a Lawful Development Certificate for a proposed use (S.192) is not a planning application in the normal sense in that the planning merits and assessment against the Development Plan are not considered.

Basically, the question to be asked is whether the development is lawful without needing any further permission. A development is 'lawful' if no enforcement action may be taken by the authority. The matters to be determined are solely matters of evidence and law. Occasionally, applications of this nature are submitted for works that do not constitute development, which is the case with this proposal.

The proposed works are all internal and comprise the removal of Kalvis Wood Pellet Boilers and the installation of 14 Angus Eco Orlan Boilers. All the equipment is fitted internally within the building and no external changes to the building are proposed. There will be no change of fuel type or manner of activity and the existing flues will be utilised.

By virtue of Section 55 part 2a of the Town and Country Planning Act (1990), the proposal does not constitute development as the works will only affect the interior of the building and will not materially affect the external appearance of the building.

It is worth noting the works would also be acceptable under Part 7, Class I of The Town and Country Planning (General Permitted Development) (England) Order 2015, as the proposal constitutes the replacement of machinery that would not materially affect the external appearance of the premises.

CONCLUSION:

As per the submission, the proposed works will all be internal with no external alterations to the building.

The Council is, therefore, satisfied that no planning application is required for such a scheme and under the provisions of S.192 of the Planning Act 1990, the proposed works are considered lawful for planning purposes.

RECOMMENDATION:

It is recommended a Lawful Development Certificate be issued.

Based upon the information submitted in the application form and plans;

- 150:01-REV2 – Location Plan

the Council is satisfied that the proposed removal of Kalvis Wood Pellet Boilers and installation of 14 Angus Eco Orlan Boilers does not require a planning application and under the provisions of S.192 of the Planning Act 1990, the proposed works are considered lawful for planning purposes.

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE
<p><u>STATEMENT OF PROACTIVE WORKING:</u></p> <p>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.</p>