

Development Management Delegated Decision Report

B/21/0337



SUMMARY OF APPLICATION

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Application Reference	B/21/0337		
Application Type	Full Planning Permission		
Proposal	Application for the variation of Condition 4 (Trailer and Tractor Parking) and Condition 5 (Outside Storage) attached to B/11/0449 to allow for an increase in the servicing of Road Haulage.		
Location	6, Marsh Road, Sutterton, Boston PE20 2LR		
Applicant	Mr Robert Collier		
Agent			
Received Date:	12-Jul-2021	Consultation Expiry Date:	17-Sep-2021
Valid Date:	18-Aug-2021	Statutory Expiry Date:	13-Oct-2021
Date of Site Visit:		Extension of Time Date:	---
Objections received?	No		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
Recommendation	Approve		
Report by:	Consultant Planning Officer		
Date:	29-Sep-2021		

OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is formed of an existing haulage yard, which has been operational for a considerable number of years. To the east is the applicant's dwellinghouse, a red brick bungalow. To the north is a neighbouring residential property, a white rendered bungalow. To the south is agricultural land. To the west is the recently constructed service station with shops and restaurants on site. The site is bound by the A16 to the west and is located in very close proximity to Sutterton Roundabout where the main road links of the A16 and A17 converge.

DETAILS OF PROPOSAL:

The proposal seeks the variation to Condition No. 4 and Condition No. 5 attached to B/11/0449. Condition No. 4 restricted the number of tractor and trailer units that can be parked on site to 3 of each. Condition No. 5 required no outside storage of goods other than the tractor and trailers.



It is requested that the parking of tractor and trailer units is unrestricted by number and that the physical confines of the site itself should determine the appropriate number that can be parked on site.

The erection of the proposal has been altered during the course of the application and has been agreed with the applicant.

RELEVANT HISTORY:

B/11/0449 – Application under s73 for variation of conditions attached to planning permission ref: B/18/0035/90 for:

- a) variation of condition 2 to allow the site to be operated by R.W. Collier Haulage
- b) variation of condition 8 to allow 3 No. tractors and 3 No. trailers to be parked at the site

Approved 7th March 2012.

B/18/0035/90 – Variation of condition no. 6 of Planning Permission B18/0647/86 to allow parking of two lorries – Approved 29th March 1990.

B18/0647/86 – No decision notice found.

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 30: Pollution
- Policy 36: Vehicle and Cycle Parking

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2021)

At the heart of the 2021 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 12: Achieving well designed places

- Section 14: Meeting the challenge of climate change, flooding and coastal change

CONSULTATION RESPONSES:

Lincolnshire County Council Highways Authority and Lead Local Flood Authority (13th September 2021) - Does not wish to restrict the grant of permission. Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed increase in the number of vehicles that may be operated from this established business would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and therefore, does not wish to object to this planning application.

Environmental Health (25th August 2021) - Environmental Health has no objections to the above application. I understand that there will be no storage of refrigerated units left on site overnight with regard to conditions 4 and 5 variation.

Sutterton Parish Council (14th September 2021) – No objections.

THIRD PARTY REPRESENTATIONS RECEIVED:

None received.

EVALUATION:

Section 73 of the Town and Country Planning Act instructs a Local Planning Authority to only consider the question of the planning condition's subject. If it is considered acceptable the LPA can grant permission accordingly i.e. with or without the imposition of a condition. If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application.

Given the decision of the Planning Permission B18/0647/86, the development has already been judged to be acceptable in principle. Section 73 of the Act directs a Local Planning Authority to only consider the question of the condition's subject. In this case the application seeks to remove a planning condition which restricted the number of trailers in a defined area of the site and to vary Condition five to allow outdoor storage (other than trailers).

The NPPG and NPPF direct that planning conditions should only be imposed where they meet the six tests, namely being: necessary; relevant to planning; relevant to the development to be permitted; enforceable; precise and reasonable in all other respects. Therefore the question posed by this application is if the imposed planning condition still meets the six tests for the imposition of a planning condition following the completion of a Legal Agreement between the Authority and Applicant to provide affordable housing on the site. If it doesn't meet the tests then the removal of the condition will be considered acceptable.

It is considered in assessing the variation of Condition No. 4 and Condition No. 5 attached to planning permission B/11/0449 the key matters in the assessment of this case are:

- Impact on the character and appearance of the area;
- Residential amenity;
- Highway safety and parking;

- Flood risk and surface water drainage.

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 goes on to state that 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.

No physical alterations are proposed to the site. Mature planting surrounds the haulage site on all three sides, with the applicant's bungalow being located to the east. Whilst the proposal to remove the condition will see an increase in the number of tractor and trailers that can park at the site, taking into account the size of the previously approved parking area there would be a natural restriction on the number of trailers that can be accommodated on the site. As such whilst the lifting of the restriction for the number of trailers is acceptable it is considered expedient to retain the parking area identified. This would ensure the development remains acceptable in terms of the impact on the character and appearance of the area and ultimately meets the tests for a condition set out by the NPPG.

It is considered that condition 4 and 5 can be varied to remove the reference to the maximum number of trailers that can be parked. However, in the interests of the visual amenity of the countryside the restriction of outdoor storage will remain in place.

Residential amenity

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

The supporting statement identifies that the significant majority of trailers parked at the site are flat bed. It does identify that on rare occasions a refrigerated unit is parked at the site, but that this is parked as far away from the neighbouring residential property as possible to limit impacts.

Environmental Health have not objected but have stated that, 'I understand that there will be no storage of refrigerated units left on site overnight with regard to conditions 4 and 5 variation'.

Having assessed the proposal and looked at the conditions currently imposed, which do not restrict the parking of refrigerated units on site it would not be considered reasonable to introduce this type of restriction on the type of trailers that can be parked on site at this stage. The haulage use is well established and has been operational for many years. The applicant has stated that there are rare occasions where refrigerated units have been parked on the site but that these are managed to limit the impact on residential amenity.

No objections have been received from the occupiers of the neighbouring residential property or the Parish Council. On balance therefore, the impact on the amenity of the neighbouring residential property are not considered to alter significantly as a result of the proposal, given the site is constrained by its existing boundary extents and the well-established existing haulage use.

Highway safety

Criteria d of SELLP Policy 7 requires that proposals on other employment sites, will only be acceptable, where there will be no significant adverse impact on the local highway network.

The Highways Authority have been consulted and have raised no objections to the proposal.

The proposal is therefore considered to be acceptable with regard to highway safety and parking.

Flood risk and surface water drainage

The application site is located within Flood Zone 3. Applying the Flood Risk Vulnerability Classification set out in the NPPF, the proposal for commercial development is classified as, Less Vulnerable. Given that the use is already in existence and no physical changes to the site are proposed, it is not considered that the risk of flooding will be increased as a result of the variation of conditions 4 and 5. No objection has been raised to the proposal on flood risk or surface water drainage grounds.

CONCLUSION:

The proposed scheme is for the variation of Condition No. 4 and Condition No. 5 of planning permission B/11/0449. This would allow an increase in the number of tractor and trailers that is naturally constrained by the approved parking area. The variation to Condition No. 4 would retain the approved parking area which would inform the number of tractor and trailer units that can park at the site. There will be no physical alterations to the site and it is significantly screened by established mature planting.

Whilst there is potential for some impact on the amenity of the neighbouring residential property, given the use has been well established for a significant period of time, and given the significant screening in place and the fact the site is constrained by its existing boundary extents, it is not considered that there will be a significantly different level of amenity to the current situation.

RECOMMENDATION:

Approve with the following conditions.

CONDITIONS / REASONS			
Pre-commencement conditions?	No	Agreed with applicant/agent - Date:	N/A
1	<p>This permission shall operate solely for the benefit of R.W Collier Haulage and the use hereby approved shall be terminated at such time as R.W Collier Haulage ceases to occupy the premises.</p> <p>Reason: To safeguard the rights of control by the local planning authority with regard to these matters and to accord with the objectives of Policies 2, 3 and 7 of the South East Lincolnshire Local Plan (2011-2036).</p>		

2	<p>There shall be no tractor or trailer movements to or from the site between 7pm and 3am Monday to Friday and between 4pm and 10am Saturday and Sunday.</p> <p>Reason: In the interests of the amenity of nearby residential properties and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
3	<p>The maintenance of the tractors and trailers on the site shall only take place within the 'Maintenance Area' as hatched green on approved drawing received 29th September 2021 and then only between the hours of 7am and 7pm Monday to Friday and between 10am and 4pm on Saturday and Sunday.</p> <p>Reason: In the interests of the amenity of nearby residential properties and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
4	<p>Any tractors and trailers shall only be parked within the 'Parking Area' hatched blue on approved drawing 2a/2 dated 26/10/12.</p> <p>Reason: In the interests of the amenity of nearby residential properties and to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
5	<p>There shall be no outside storage of goods or materials.</p> <p>Reason: In the interests of the visual amenity of the area in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>

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 2021 in order to seek to secure sustainable development that improves the economic, social and environmental conditions of the Borough.</p>	