

Development Management Delegated Decision Report

B/22/0202



SUMMARY OF APPLICATION			
Application Reference	B/22/0202		
Application Type	Full Planning Permission		
Proposal	Application under s73 for the variation of Condition 5 (Number of Days) of planning permission B/17/0004		
Location	Holly Cottage, 107 Sea Lane, Butterwick, Boston PE22 0HN		
Applicant	Mr Christopher Flatters		
Agent			
Received Date:	09-May-2022	Consultation Expiry Date:	11-Jul-2022
Valid Date:	09-May-2022	Statutory Expiry Date:	04-Jul-2022
Date of Site Visit:	20-Jun-2022	Extension of Time Date:	12-Jul-2022
Objections received?	n/a		
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
n/a			
Recommendation:	Approve with Conditions		
Report by:	Charlie Parry		
Date:	12 July 2022		

OFFICER REPORT

SITE AND SURROUNDINGS:

The site is an area of approx. 2.5ha that comprises of a two-storey residential dwelling known as Holly Cottage and two barns, one of which is used for log cutting. To the east of the site runs Cross Lane, to the south Sea Lane, to the west agricultural fields and to the north is a residential bungalow. There are two spectate accesses, one serving the residential Holly Cottage and the second serving the barns.

The use for log cutting was granted under planning application B/17/0004, subject to conditions restricting the use to 3 days per calendar month between 1 October and 31 May. Condition 5 was subsequently amended via planning appeal to allow operations to occur between 1 September to 31 May.



DETAILS OF PROPOSAL:

This application seeks a variation of Condition 5 attached to planning permission B/17/0004. Condition 5 restricts the log splitting operation to no more than 3 days per calendar month and to be undertaken between 1 September and 31 May.

This application seeks to vary the condition to allow the log splitting operations to be undertaken an additional 3 days, equating to 6 days per calendar month, between 1 September and 31 May in any year.

RELEVANT HISTORY:

B/17/0004 - Change of use from agricultural Dutch barn to log storage and use of log splitting machinery in outside yard area. Granted.

APP/Z2505/W/17/3178639 – Appeal to amend wording of Condition 5 of B/17/0004 to allow operations between 1 September to 31 May in any year. Allowed.

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 7: Improving SELincs Employment Land Portfolio
- Policy 30: Pollution

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 8 – Promoting healthy and safe communities;
- Section 11 – Making effective use of land;
- Section 12 – Achieving well-designed places;

National Planning Practice Guidance (PPG)

CONSULTATION RESPONSES:

Witham Fourth IDB

No objections

LCC Highways and Lead Local Flood Authority

No objections

Environmental Health

(summarised)

The planning officer interpreted the 28 days as 3 days per month over a 9 month period and it is this provision the applicant now seeks to amend to allow 6 days per month. As already stated above the noise assessment indicated with the acoustic recommendations in place that noise from the mechanical cutting equipment was not significant and therefore if it operates 3 or 6 days this is not really an issue. However potentially doubling the production days as has been requested could double incidental activity such as delivery, handling and outgoing deliveries as more raw product is required and logs produced. However, on balance it is my view this is unlikely to significantly impact residential amenity.

THIRD PARTY REPRESENTATIONS RECEIVED:

No third party representations have been received.

EVALUATION:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that a determination of an application must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations in regard to this application are:

- matters of principle;
- impact on the character of the area;
- impact on neighbours' amenity;

Principle

This application is made under Section 73 of the Town and Country Planning Act 1990 and allows applicants to request the removal or variation of conditions attached to a previous grant of planning permission. Under a Section 73 application the Local Planning Authority is only permitted to consider the question of the conditions, not the principle of the development.

Therefore the main consideration of this application is the impact of an additional 3 days per calendar month (equating to a total of 6 days) between 1 September and 31 May, on neighbouring amenity and character of the area.

Impact on character and amenity

Policy 2 and 3 of the SELLP requires developments to take into consideration the impacts upon size, scale, amenity, quality of design and impacts upon neighbouring amenity through noise, odour or disturbance.

As part of planning application B/17/0004 a noise assessment was submitted that demonstrated with a number of mitigation measures the noise impact of the cutting operations would not be significant upon the neighbouring property. The permission was granted with a condition requiring the implementation of these measures in line with the Noise Report.

The increase in number of days from 3 per calendar month to 6 per calendar month would result in an increase in the regularity of operations, however, the noise mitigation measures remain in place to reduce the impact upon the neighbouring property and the time frame between 1 September and 31 March would also remain. The increase in cutting could result in an increase in incidental movements and activity such as

deliveries, handling and outgoing distributions but these are not likely to result in a significant impact.

Environmental Health have been consulted on the proposed changes and have responded with comments, concluding that the increase to 6 days is unlikely to have a significant impact on residential amenity.

The changes in number of operational days would not result in any physical changes to the building or appearance of the site.

It is therefore considered that the proposal to increase from 3 days to 6 days would not have a significantly detrimental impact upon neighbouring amenity or the character of the area, in accordance with Policy 2 and 3 of the SELLP (2011-2036).

CONCLUSION:

It is considered that the proposal to vary condition 5 of B/17/0004 to allow operations to occur for 6 days per calendar month would not result in a significantly detrimental impact upon neighbouring amenity through noise or disturbance, in accordance with Policy 2 and 3 of the SELLP 92011-2036).

RECOMMENDATION:

Approve with conditions

CONDITIONS / REASONS			
Pre-commencement conditions?	n/a	Agreed with applicant/agent - Date:	
1.	<p>The development hereby permitted shall be carried out in accordance with the following approved documents:</p> <ul style="list-style-type: none"> - Ordnance Survey plan stamped as received 25 April 2017 (1a/2) and accompanying email from Ellie Cocks dated 13 April 2017. - Location plan with the site outlined in blue received 15 Dec 2016 (2/2) - Noise Impact Assessment ref HA/BSP/20170324/V1 prepared by HA Acoustic and received on 29 March 2017. <p>Reason: To ensure the development is undertaken in accordance with the approved details and to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>		
2.	<p>When the use hereby approved ceases to be directly operated by Mr Flatters the use shall cease and all materials and equipment brought onto the premises in connection with the use, with the exception of the extension and cladding to the barn, shall be removed within 2 months of the cessation of use.</p> <p>Reason: The proposed use is contrary to Policy 1 of the South East Lincolnshire Local Plan 2011-2036 and has only been permitted to meet the special circumstances of this case, namely the diversification of the use of an agricultural holding owned by Mr Flatters.</p>		
3.	<p>The development hereby permitted shall not be continued until the north facing elevation of the barn extension and the roof of the existing barn (apart from the centre roof light panel accessing upper light to this area) and roof of the barn</p>		

	<p>extension is fitted with an inner layer of minimum 19mm marine-ply sheeting on a wooden framework. The cavity between the inner and outer layer of the side panel shall be filled with Rockwool (or similar) mineral wool and the external elevations of the lean to barn extension shall be clad with 1.6mm galvanised metal sheeting (green in colour to blend with the existing green buildings) to match the colour and finish of the existing barn, in accordance with the specification set out the Noise Impact Assessment HA/BSP/20170324/V1 prepared by HA Acoustics and received on 29 March 2017. This cladding shall be maintained in a sound condition for the duration of the use hereby approved.</p> <p>Reason: in the interests of the amenity of nearby residents and to accord with Policy 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
4.	<p>The development hereby permitted shall not be continued until a continuous straw bale barrier (using large size bales of a dimension of 1.2m x 1.2 metres or larger) shall be installed the full length of the rear yard between the grass paddock fence and the outer edge of the yard to a minimum height of 3.0 metres and a minimum length of 10 metres , as set out in Ordnance Surevy plan stamped as received 25 April 2017 (1a/2) and accompanying email from Ellie Cocks dated 13 April 2017. This barrier shall be maintained for the duration of this operation.</p> <p>Reason: In the interests of amenity of nearby residents and in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>
5.	<p>The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall not take place more than 6 days in any one calendar month and shall not take place except between 1 September and 31 May each year. The operations associated with the log splitting operation, including the operation of equipment, moving of storage bins, timber stacking, site clearance and preparation, shall only take place between the hours of 09:00 and 17:00 Mondays to Fridays, and at no time on Saturdays, Sundays or on public holidays.</p> <p>Reason: In the interests of the amenity of nearby residents and in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan (2011-2036).</p>

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE

STATEMENT OF PROACTIVE WORKING:

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.