

Development Management Delegated Decision Report

B/23/0095



SUMMARY OF APPLICATION			
Application Reference		B/23/0095	
Application Type		Major - Full Planning Permission	
Proposal		Application under s73 for the removal of Condition 7 (Solid Timber Acoustic Fence) of approval B/21/0191	
Location		7 - 9, Redstone Road, Boston PE21 8EA	
Applicant		Mr S Epton, Yarborough Developments Ltd	
Agent		Mr Nick Overton, NiCAD Consultancy Services Ltd	
Received Date:	06-Mar-2023	Consultation / Publicity Expiry Date:	24-Apr-2023
Valid Date:	07-Mar-2023	Statutory Expiry Date:	06-Jun-2023
Date of Site Visit:	03-Apr-2023	Extension of Time Date:	
Objections received?		No	
5 day notification record:			
Councillors notified	Date	Response received – date	Ok to continue
N/A	N/A	N/A	N/A
Recommendation		Approve with Conditions	
Report by:		Charlie Parry	
Date:		18-May-2023	

OFFICER REPORT

SITE AND SURROUNDINGS:

The site to which the application relates is a roughly rectangular parcel of land, located off Redstone Road. In accordance with the South East Lincolnshire Local Plan (2019), the site is part of the wider BO005 Established Employment Site.

Just west of centre in the site is a large rectangular building constructed from red brick. There are 4 workshops along the western boundary, 2 along the southern and 5 along the eastern boundary. The workshops are constructed from plastisol cladding.

To the south of the site is the 'South Forty Foot drain', which separates the site from the residential properties that front Wyberton West Road.

DETAILS OF PROPOSAL:

An application has been submitted under s73 for the removal of Condition 7 (Solid Timber Acoustic Fence) of approval B/21/0191.



Condition 7 of application B/23/0095 required an acoustic fence to be erected along the southern boundary of the site.

The applicant requests the removal of the condition on the following grounds:

- Effectiveness of the fence
- Cost
- Other factors;
 - o Type of activities carried out within the units
 - o Condition 8 of application B/21/0191 restricts noise from plant and machinery

RELEVANT HISTORY:

The site has a substantial planning history as the application site forms part of the wider BO005 Established Employment Site allocation in the SELLP (2019). The following history is therefore relevant to this application:

B/02/0241 - Single storey extension to provide fabrication/electrical and paint preparation facility

Granted: 13.08.2002

B/21/0191 - Construction of 11no. industrial units

Granted: 28.07.2021

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

South East Lincolnshire Local Plan (2019)

The following policies contained within the South East Lincolnshire Local Plan (2019) (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

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 11: Making effective use of land;
- Section 12: Achieving well-designed places

Paragraph 55 of the National Planning Policy Framework

National Planning Practice Guidance (PPG)

CONSULTATION RESPONSES:

Lincolnshire County Council (Local Highway and Lead Local Flood Authority)

No objections.

Environmental Health

No objections.

THIRD PARTY REPRESENTATIONS RECEIVED:

None received.

EVALUATION:

The application is made under Section 73 of The Town and Country Planning Act 1990 and the Local Planning Authority is only permitted to consider the question of the conditions attached to the planning permission.

Under application, B/21/0191 permission was granted for the erection of 11 industrial units. Condition 7 of this application required the applicant to construct a solid timber acoustic fence along the southern boundary of the site.

Impact on Residential Amenity

The potential impact on the residential amenity of the properties to the south is the primary consideration for the report. Policy 2, 3 and 30 of the SELLP (2019) advocate that a proposed development should consider if there is an impact on the amenity of the site and neighbouring sites as well as the impact upon neighbouring land uses in terms of noise, odour, disturbance or visual intrusion.

The condition was recommended from Environmental Health as a 'sensible precaution' due to there being residential properties across the river to the south (approximately 50m apart).

The applicant has put forward three main reasons as to why the condition should be removed, which will be explored below.

First of all, one of the points raised by the applicant is the cost of the fence. Whilst this is noted, this is not a material planning consideration and therefore, this aspect of their argument is dismissed.

The applicant has however, questioned the effectiveness of the fence due to it being at least 42m away from any residential dwelling. In addition, under the 'other factors' section submitted by the applicant, they have stated that the activities anticipated to be carried out are unlikely to be heavy noise events. Finally, they have also stated that condition 8 of application B/21/0191, restricts the noise from any fixed plant and machinery and therefore the requirement of a fence does not meet the tests of being necessary or reasonable.

The application form submitted as part of application B/21/0191 stated that the use of the site would be for a commercial hire plant company. It is accepted that this is unlikely to cause 'heavy noise events'. Furthermore, condition 8 does ensure the noise from machinery and plant is restricted to an adequate level. The combination of the two aspects

are considered sufficient in ensuring that the residential amenity of the properties to the south (across the river) are protected. This is reinforced by Environmental Health raising no objections to the removal of the acoustic fence.

The application therefore accords with policies 2, 3 and 30 of the SELLP (2019).

It is considered that the removal of condition 7 would not have an adverse impact on other material planning considerations.

CONCLUSION:

The removal of condition 7 and therefore the removal of the requirement to install an acoustic fence, approved under application B/21/0191, would not have an adverse impact on the residential amenity of the properties to the south of 7-9 Redstone Road. Condition 8 will control noise activity at the site, and it is therefore considered that Condition 7 is no longer necessary. The proposal is therefore deemed acceptable in respect of policies 2, 3 and 30 of the South and East Lincolnshire Local Plan (2019) and para 55 of the NPPF.

RECOMMENDATION: Approve with Conditions

CONDITIONS / REASONS			
Pre-commencement conditions?	N/A	Agreed with applicant/agent - Date:	N/A
1	<p>The development hereby permitted shall be begun before the expiration of four years from the date of permission B/21/0191, dated 28.07.2021.</p> <p>Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.</p>		
2	<p>The development shall be carried out in strict accordance with application B/21/0191 approved 28.07.2021, application B/21/0191/NMA approved 10.12.2021 and in accordance with the associated plans referenced:</p> <ul style="list-style-type: none"> - Location Plan; - 21/RIE/02 Proposed Block Plan; - 21/RIE/03B Proposed Layout/Elevations. <p>Reason: To ensure the development is undertaken in accordance with the approved details, in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and with the intentions of the National Planning Policy Framework (2021)</p>		
3	<p>The development shall be carried out in accordance with the approved flood risk assessment (FRA) dated March 2021 and the following mitigation measures it details:</p> <ul style="list-style-type: none"> - Finished floor levels shall be set no lower than 300mm above the ground level; - Flood resilience and resistance measures shall be incorporated into the proposed development as stated to 500mm above the finished floor levels - The mitigation measures shall be fully implemented prior to occupation and subsequently remain in place. 		

	<p>Reason: To reduce the risk of flooding to the proposed development and future occupants in accordance with the National Planning Policy Framework (2021) and Policies 2 and 4 of the South East Lincolnshire Local Plan (2019).</p>
4	<p>Notwithstanding the approved plans, the development hereby approved shall be undertaken in accordance with the Foul and Surface water details 'Drainage Layout Plan (Drawing No. 2112/01 Drainage Layout Plan)' approved under B/21/0191/CD1 and maintained thereafter.</p> <p>Reason: To ensure that the site is adequately drained and to avoid pollution in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019</p>
5	<p>Notwithstanding the approved plans, the development hereby approved shall be undertaken in accordance with the Dust Management Plan details 'Construction Management Plan (dated 01/03/2022)' approved under B/21/0191/CD1, and maintained in accordance thereafter.</p> <p>Reason: To safeguard the amenity of the area in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan (2019).</p>
6	<p>The development hereby approved shall be undertaken in accordance with the EV Charging point details 'ROLEC EV Charging Information Sheet (Uploaded 03.03.2023) and the Proposed Block Plan (Uploaded 25.04.2023) approved under B/21/0191/CD2.</p> <p>Reason: In the interests of promoting sustainable transport in accordance with Section 9 of the National Planning Policy Framework 2021 and Policy 31 of the South East Lincolnshire Local Plan (2019).</p>
7	<p>Noise from the fixed plant and machinery at the development shall not exceed a 'rating level' of LAeq (15min) 45dB as defined by BS4142:2014 when measured 3.5m from the facade of any residential property between the hours of 7.00am and 11.00pm and a 'rating level' of LAeq (15min) 40dB as defined by BS4142:2014 when measured 3.5m from the facade of any residential property between the hours of 11pm and 7am. Sound level measurements shall be undertaken in accordance with the main procedural requirements of BS7445:2003, parts 1-3.</p> <p>Reason: In the interests of the residential amenities of neighbouring residents in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).</p>
8	<p>No above ground construction works shall take place until full details of the biodiversity enhancement measures across the site and a timetable for their implementation, have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be implemented in accordance with the approved scheme.</p> <p>Reason: In the interest of enhancing the ecology of the area in accordance with Policy 2, 28 and 31 of the South East Lincolnshire Local Plan (2019).</p>
9	<p>The development hereby approved shall be undertaken in accordance with the Cycle stand details 'Details of Bicycle Stands, (Uploaded 03.03.2023), Proposed Block Plan</p>

(Uploaded 25.04.2023) and the Application Form (Uploaded 03.03.2023)' approved under B/21/0191/CD1.

Reason: To encourage travel to the site by more sustainable modes of transport in accordance with Policy 2 and 3 of the South East Lincolnshire Local Plan (2019) and the National Planning Policy Framework.

**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.