DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-0058-26**	**Applicant:**	**G Khan**
Proposal:	Confirmation that the existing use of land for Vehicle Storage is Lawful		
Location:	Alderlands James Road Crowland		
Terminal Date:	23rd March 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Section 191 of the Town and Country Planning Act (1990) (as amended)

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
RESIDENTS	5	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is an application made under S191 of the Town & Country Planning Act 1990 (as amended). The applicant seeks from the local planning authority:

Confirmation that the existing use of land for Vehicle Storage is Lawful.

The applicant has provided the following plans:

·Site location plan
·Site Location, Block Plan as Pre-Existing Before New Ownership
·Site Location, Block as Existing
·Site Layout Block Plan as Proposed
·Supporting Statement

Site Description

The application site is located outside the defined settlement of Crowland and in the countryside for policy purposes. The application site is located within Flood Zone 3 in accordance with EA flood Maps and the South East Lincolnshire SFRA shows that the site is located in a danger for all, max hazard area (with depths greater than 2m).

The site at present is used for the storage of cars, there is remnants of a steel frame structure that is related to a former use of the site as a council depot. The site is accessed from James Road, to the south of a dwelling known as 'Alderlands'. The site abuts a residential development that is located on its northern boundary.

Visually the site is a prominent feature when entering Crowland from the south (A16 and Peterborough Road).

History

- H02-0413-17 - Change of use of land for extension of caravan site (retrospective). Refused 05-06-17.
- H02-0817-25 - Change of use of part of land from former bus/coach yard to vehicle storage (Sui Generis) for up to 50 cars - Retrospective. Refused 03-11-25

Consultation Responses

None requested.

Representation received

A number of representations have been received. Below is a consolidated Summary of Representations

·A lawful use certificate requires clear, documentary evidence of 10 years' continuous B8 use. There was a substantial break in use when the previous owners ceased trading due to ill health, the site fell into disrepair, and was marketed for sale. If uninterrupted car storage use (not bus depot, repairs, or workshops) cannot be proven, the claim fails.
·The applicant's documentation contains inconsistencies, including claims the site was closed due to Covid from 2019-2024, despite UK lockdowns beginning in March 2020. A Facebook post confirms that Tourmaster Coaches ceased trading in May 2019, undermining the reliability of the submitted evidence.
·The "low-intensity" description does not reflect actual impacts. The use generates increased traffic (including transporters), noise (engines, alarms), extended hours of access, lighting glare, exhaust emissions, and general disturbance, materially harming neighbouring residential amenity.
·The site currently contains a large number of stored vehicles (50-70+), creating a prominent eyesore at the entrance to Crowland, harming the character and appearance of the area.
·Additional concerns include cars appearing on site without permission, raised ground levels, and tree removal.
Summary: The proposal represents an unlawful or unproven use, causes material planning harm, and should not be approved.

Relevant Legislation

Section 191 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of existing use or development.

(1) If any person wishes to ascertain whether
(a) any existing use of buildings or other land is lawful;
(b) any operations which have been carried out in, on, over or under land are lawful; or
(c) any other matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful,
he may make an application for the purpose to the local planning authority specifying the land and describing the use, operations or other matter.

(2) For the purposes of this Act uses and operations are lawful at any time if

(a) no enforcement action may then be taken in respect of them (whether because they did not involve development or require planning permission or because the time for enforcement action has expired or for any other reason); and
(b) they do not constitute a contravention of any of the requirements of any enforcement notice then in force.

(3) For the purposes of this Act any matter constituting a failure to comply with any condition or limitation subject to which planning permission has been granted is lawful at any time if
(a) the time for taking enforcement action in respect of the failure has then expired; and
(b) it does not constitute a contravention of any of the requirements of any enforcement notice or breach of condition notice then in force.

(3A) In determining for the purposes of this section whether the time for taking enforcement action in respect of a matter has expired, that time is to be taken not to have expired if

(a) the time for applying for an order under section 171BA (a "planning enforcement order") in relation to the matter has not expired,
(b) an application has been made for a planning enforcement order in relation to the matter and the application has neither been decided nor been withdrawn, or
(c) a planning enforcement order has been made in relation to the matter, the order has not been rescinded and the enforcement year for the order (whether or not it has begun) has not expired.]

(4) If, on an application under this section, the local planning authority are provided with information satisfying them of the lawfulness at the time of the application of the use, operations or other matter described in the application, or that description as modified by the local planning authority or a description substituted by them, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(5) A certificate under this section shall

(a) specify the land to which it relates;
(b) describe the use, operations or other matter in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use, operations or other matter to be lawful; and
(d) specify the date of the application for the certificate.

(6) The lawfulness of any use, operations or other matter for which a certificate is in force under this section shall be conclusively presumed.

(7) A certificate under this section in respect of any use shall also have effect, for the purposes of the following enactments, as if it were a grant of planning permission
(a) section 3(3) of the M1Caravan Sites and Control of Development Act 1960 or section 7(1) of the Mobile Homes (Wales) Act 2013;
(b) section 5(2) of the M2Control of Pollution Act 1974; and
(c) section 36(2)(a) of the M3Environmental Protection Act 1990."

Planning Considerations

This application has been made under Section 191 of the Town and Country Planning Act 1990 and therefore the sole matter for consideration is whether the applicant has demonstrated, on the balance of probabilities, that the existing use of the land for vehicle storage is lawful.

The Local Planning Authority (LPA) does not accept that the historic use of the site comprised a Class B8 storage use. The evidence submitted by the applicant, including Table 4.1 of the supporting statement, confirms that from 1999 the site operated as a private bus/coach depot incorporating industrial painting and associated operational infrastructure.

The activities described include the parking of 8-10 large buses and approximately 10 caravans, the presence of a spray booth/paint shop, industrial compressors, extraction systems, chemical storage and daily staff operations.
The character of that use was therefore that of an operational transport depot with ancillary industrial processes. It was active in nature, involving vehicle maintenance, painting and business-based operations, rather than functioning as a passive storage use.

The current application seeks confirmation of lawful use for vehicle storage of up to 50 cars. The LPA considers that this represents a materially different use in planning terms. The present use is characterised by the commercial storage of private vehicles and does not comprise the operational depot, maintenance or industrial painting functions that defined the historic use of the site. The nature, function and character of the planning unit have therefore materially changed.

Where a material change of use has occurred, the relevant 10-year period for the purposes of Section 191 runs from the date that the new use commenced. The applicant asserts that a B8 storage use has been continuous for 26 years (1999-2025). However, the evidence provided demonstrates that the use introduced in 1999 was a mixed operational bus/coach depot with industrial painting, not a Class B8 storage use. Accordingly, the LPA does not accept that the storage of vehicles has been occurring for the period claimed.

Furthermore, the applicant's own chronology identifies a period of closure following the cessation of the coach business. The supporting material indicates that trading ceased in 2019, and the table refers to a prolonged closure period. The evidence submitted, including aerial imagery, does not clearly demonstrate that the current vehicle storage use was operating continuously throughout that period. Even if some limited storage activity occurred, insufficient documentary evidence has been provided to demonstrate, on the balance of probabilities, that the present use has subsisted continuously for a period exceeding 10 years.

The burden of proof in an application under Section 191 rests with the applicant. Having regard to the evidence submitted, the LPA is not satisfied that the existing use of the land for vehicle storage has been continuous for a period sufficient to render it lawful. The historic use of the site was materially different in character, and the applicant has failed to demonstrate that the current use is immune from enforcement action.

Accordingly, the requirements of Section 191 are not met.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

This application has been considered under Section 191 of the Town and Country Planning Act 1990. The sole issue for determination is whether the applicant has demonstrated, on the balance of probabilities, that the existing use of the land for vehicle storage is lawful.

The evidence submitted indicates that the historic lawful use of the site comprised an operational bus/coach depot incorporating maintenance, industrial painting and associated infrastructure. The Local Planning Authority considers that the current use of the land for the storage of up to 50 vehicles represents a materially different use in planning terms, distinct in character and function from the former depot use.

The applicant has not demonstrated that the present vehicle storage use has subsisted continuously for a period exceeding 10 years. The burden of proof rests with the applicant, and the information provided is insufficient to satisfy the Authority that the requirements of Section 191 have been met.

Accordingly, the Local Planning Authority is not satisfied that the existing use of the land for vehicle storage is lawful.