DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H03-1126-23** | **Applicant:** | **Mrs P Andrews** |
| **Proposal:** | Change of use from residential to part commercial - selling of plants (Retrospective) - approved under H03-0715-23. Modification of Condition 2 to change trading days to Monday-Sunday | | |
| **Location:** | Glanford House Main Road Hop Pole | | |
| **Terminal Date:** | 14th February 2024 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

| | |
|---|---|
| 01 | Spatial Strategy |
| 02 | Development Management |
| 03 | Design of New Development |
| 07 | Improving South East Lincolnshire's Employment Land Portfolio |
| 30 | Pollution |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2023**

Section 6 - Building a strong, competitive economy
Section 12 - Achieving well designed places

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| PARISH COUNCIL | 0 | 0 | 0 | 1 |
| WARD MEMBER | 0 | 0 | 0 | 0 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SHDC INTERNAL | 0 | 0 | 1 | 0 |

## CASE OFFICER ASSESSMENT

### Proposal

This is a Section 73 application seeking permission to modify Condition 2 of H03-0715-23 to change the trading days to Monday-Sunday.

### Site Description

The site is situated outside any defined settlement boundary and is therefore classed as being in the open countryside as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). The dwelling is made of red brick with a tiled roof and white uPVC doors and windows, it features a hipped roof with three chimneys on the roof. At the front of the property there is a small picket fence surrounding the site with a variety of trees and hedges. On the south west side at the front of the curtilage this is where the plants are stored and sold. There are very few houses within the area of this dwelling and all feature somewhat different designs.

### History

H03-0335-88 - Demolish existing workshop and store & erect new workshop - Approved

H03-1110-90 - Erection of workshop - Approved

H03-0715-23 - Change of use from residential to part commercial - selling of plants (Retrospective) - Approved

### Consultation Responses

Deeping St Nicholas Parish Council

The Parish Council has no objections to this amendment.

Lincolnshire County Council Highways Authority

Recommendation:

No Objections -

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 development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

The proposal is for the change of use from residential to part commercial - selling of plants (Retrospective) - approved under H03-0715-23. Modification of Condition 2 to change trading days to Monday-Sunday. This would not have an adverse impact on the public highway.

South Holland District Council Environmental Protection

No comments.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

### Key Planning Considerations

The main issues and considerations in this case are (but not limited to):

- Layout, design and impact on the character of the area
- Impact on neighbouring residents/ land users/ land use
- Highway Safety

## Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

## Planning Considerations

### Policy/ Principle

As outlined in the previous application on this site, the site is located outside the settlement boundary for Deeping St Nicholas as set out in the SELLP. The principle of carrying out the change of use on this site was confirmed to be acceptable under Policy 7 of the SELLP in the previous full permission through assessing it against the relevant criteria. The proposal was considered to be in accordance with almost all of the requirements in the policy stating that *'It could be considered that it slightly conflicts with the last requirement due to it failing to identify a need for the business to be located outside of employment area however as it conforms with all the other points the principle of the development is considered acceptable*

As such, the proposal is considered to be in accordance with the requirements of Policy 7 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria. Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

### Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals.

Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

There are no external changes or alterations proposed as part of the application and the site will remain the same as what was approved on the previous application with the exception of the plants being kept out on site Monday - Sunday. This should not cause any issues to the area as was previously outlined in the last report it is acceptable to feature plants within your curtilage and this is therefore considered to be acceptable and is a common theme for many residents. The justification in the previous report stated that *' it is considered that featuring plants such as this within your own curtilage is a normal form of development and is certainly something that can be displayed without the need for planning permission, in this case it is only needed due to the commercial use for wanting to sell the plants*'. The plants are also not permanent as they are potted for easy distribution and therefore if an issue was to arise, they could be moved and hidden from view. A condition will be imposed to enforce that the owner/ occupier must remove the plants and any other business related items from view of the highway when not in the operating window.

This proposal is in accordance with Policy 2 & 3 of the SELLP and Section 12 of the NPPF and does not impact the locality or the street scene.

Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. Policy 30 of the SELLP states that development proposals will not be permitted where they would lead to unacceptable adverse impacts upon the amenities of the area by way of air noise and light levels.

As there are no external works proposed there is no concern regarding overlooking or overshadowing and the feature is not considered to be overbearing on the area. It therefore conforms with Policy 2 & 3 of the SELLP and Section 12 of the NPPF.

The previous application was approved under the basis that the business will be open from April/ May - August/ September and will open again for two weeks in December with the opening hours being dependent on the weather and trade being conducted from Friday - Sunday. This was conditioned accordingly for these opening times with the hours being 08:00am - 18:00pm, the proposal aims to modify this to allow for trade from Monday - Sunday. This means that trade will be exclusively Monday - Sunday with the same months in use and the same opening hours, therefore, these changes are not likely to be considered to lead to any significant impacts in amenity terms with the business still only being open for 3 - 5 months at a time per year on average (excluding the December period). As mentioned in the previous report, due to the short time the business will actually be running for this limits any potential impact that could arise, furthermore, the operating hours will also only be during normal working hours. This would be conditioned to ensure and enforce this. Only opening during the summer months makes sense due to this being the best time to grow plants and sell them on and of course opening again in December is relevant to selling Christmas Trees at that time.

The nearest neighbour is over 60m away across the main road, it could be considered that any potential noise issues could be drowned out by the traffic daily along this busy main road, the road provides a direct route through to Peterborough and South Kesteven and is a popular route for residents to travel along. By the time this traffic could have died down the business will most likely have stopped operating ensuring no unacceptable noise levels will arise at potential unacceptable times. The other neighbours are over 70m south west and and over 390m south east. The

application has been in use since May 2023 retrospectively and has been in use with the relevant permission since 02/10/23, no concerns have been raised by Environmental Health and as far as the LPA are aware there have been no reports in noise increase and no neighbour objections. Furthermore, it could be considered that by increasing the amount of days the business can operate it gives people more variety of days to attend the business and therefore could reduce the peak times for people to attend as they will be able to go on different days.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

As mentioned in the previous report, it is still difficult to know how many people will be on site at any one time due to the business not operating on a booking basis so we could not enforce a condition limiting the amount of people on site during hours of operation. Despite the increase in operating hours it would not be considered that there would be a significant increase in the amount of customers on site, in any case, by extending the hours of operation it allows for people to attend at more times and therefore meaning the viewing periods will be more sporadic than before and it could reduce the amount of people on site at certain times. Furthermore, the site is still considered to provide enough vehicle parking spaces and are in accordance with Policy 36 (Appendix 6).

Similarly, it not considered that there will be a significant increase in vehicular traffic as they are sited on a busy road due to it providing access to other settlements in South Holland and Peterborough, Lincolnshire County Council Highways Authority have been consulted and raised no objection stating that *'This would not have an adverse impact on the public highway'*. The scheme is considered to be in accordance with Section 9 of the NPPF and is therefore acceptable in this instance.

It is therefore considered that this development is accordance with Policy 36 (Appendix 6) and will provide enough spaces and it also accords to Section 9 of the NPPF as it is not considered to unacceptably impact highway safety.

## Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development outside of the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh significantly against the proposal and as such, the planning balance is in favour of the development.

## 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

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 30 and 36 (Appendix 6) of the SELLP, along with the identified sections contained within the NPFF. The potential increase in noise and disturbance are not considered to be significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

## Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.