

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H10-0648-23 **Applicant:** Mr & Mrs J & P Russell

Proposal: Change of use for the sale of fruit, vegetables, plants and erection of shed for storage of produce - Retrospective

Location: The Chalet Hospital Drove Little Sutton

Terminal Date: 14th November 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
24	The Retail Hierarchy
27	Additional Retail Provision
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 6 - Building a strong, competitive economy
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks full planning permission for the part change of use for the sale of fruit, vegetables, and plants, as well as the erection of a shed for the storage of this produce, at The Chalet, Little Sutton. The business has been operating from the site since 2009; however, the shed was erected in 2021.

The shed is constructed of timber, with black UPVC roofing and fittings. The outbuilding measures 3650mm by 3650mm, with a height of 3100mm to the apex.

Site Description

The site is within the settlement boundaries of Little Sutton, as outlined within the South-East Lincolnshire Local Plan, 2019. The settlement is characterised by a linear form development, located along the western portion of Hospital Drove. The site is located towards the north of Little Sutton.

The dwelling relating to this application is typical of the area, being a bungalow constructed of light grey bricks. The shed, operating as the farm shop, is located to the side of the dwelling, level with the principal elevation. Significant space is available both to the rear and front of the site for parking.

Relevant History

No relevant history.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Highway and Lead Local Flood Authority

"No objection: The sale of fruit, vegetables and plants has demonstrably been conducted from this property since at least 2009, with no evident harm being caused to those using the adjacent public highway. Under those circumstances, and 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 continued operation of this facility would not be expected to have an unacceptable impact upon highway safety and therefore does not wish to object to this planning application."

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, one letter of representation has been received.

These can be summarised as:

- Concerns regarding traffic and parking
- Requests a minimum of six parking places.

Key Planning Considerations

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.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Little Sutton which is classed as a "other service centre and settlement" within Policy 1. As such development will be permitted that supports Little Sutton's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

As the site is within Little Sutton, development within this location is considered appropriate. The proposal would support the settlement's role as a service centre via the creation of a local service.

Therefore, the proposal is considered to be in accordance with Policy 1 of the SELLP. The principle of development on this site is considered acceptable subject to other material considerations being met.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that " 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 130, contained within Section 12 of the NPPF, 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. 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 SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The shed is considered to be in keeping with the character of the area. The materials are typical of rural outbuildings, with this typicality naturalising the development. While the shed is visible from the street, the impact upon the character of the area is relatively low.

The proposed scale of the farm shop building is proportionate to the size of the plot and the dwelling. The structure appears visually subservient to the host, and therefore, the relative impact upon the character of the area or the dwelling is low.

The use of the structure as a farm shop would not be out of keeping with the area. Within rural communities such as this, small scale farm shops/ produce sales areas are typical. As such, the proposed use would not appear out of character.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF 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.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions. Policy 30 expands upon these policies, with a particular focus on pollution, including noise pollution.

The proposed shed would not create any additional overlooking or overshadowing. The boundary treatments present, coupled with the significant distances present would ensure no overshadowing occurs.

The use as a farm shop would increase noise pollution in the area. However, it is considered that the relative levels of noise generated would be low, reducing the potential impacts of the development. Any noise generated would not be at sensitive hours, further reducing any potential harmful impacts. Furthermore, it should be noted that the use has occurred from the site for an extended period of time prior to this application. In this time, no noise complaints have been received.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 111 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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

It is proposed that three additional parking spaces will be provided, bringing the total number to six. It is considered that this is sufficient given the relatively small scale of the business. This level is in line with Appendix 6 of the SELLP. There would be sufficient room for any small delivery vehicles to park on the site.

The proposal would not generate sufficient traffic, either via deliveries or customers, as to significantly impact highway safety. The use has occurred since approximately 2009 without any unacceptable highway impact. This sentiment has been reflected in the comments of the Highway Authority who have raised no objections.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: applying the sequential test and then, if necessary, the exception test as set out below".

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South-East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the SELLP is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the SFRA as a basis to apply the sequential test.

Within the SFRA the site is classed as "danger for most", with a hazard depth of up to 2 metres.

While no mitigation methods have been proposed, it is considered that the proposal still conforms to Policy 4 and Section 14 of the NPPF on flood risk. The relatively small scale of the proposal would make it impractical and unsightly to raise floor levels to the necessary level. Furthermore, the scale restricts the number of users, thereby reducing those who may be at harm to flooding. The adjacent dwelling, located less than 10 metres from the shed, could offer refuge in the event of a flood. While the stock would be damaged if a flood was to occur, the perishable nature of the stock would limit the actual impacts.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Economic Sustainability

Section 6 of the NPPF relates to economic duties of planners. Paragraph 84 is pertinent here,

stating that planning decisions should enable "the sustainable growth and expansion of all types of business in rural areas" and "the retention and development of accessible local services and community facilities, such as local shops". It is considered that the proposal conforms to both paragraphs here, and therefore, weight should be given in favour of the proposal. The proposed use would provide an accessible local service, delivering local produce in a sustainable manner.

Policies 24 and 27 of the SELLP both encourage the retention and creation of local shops within settlement boundaries. Policy 24 states that, outside the retail hierarchy, local shops which meet the day-to-day needs of nearby residents will be promoted. Policy 27 goes on to reemphasise this point and outlines an 100sqm floor space limit, to which this proposal conforms. As such, it is considered that the proposal conforms to Policies 24 and 27 of the SELLP, and therefore, weight is given in favour of the proposal.

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 within 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 SELLP and the provisions of the NPPF when viewed as a whole. The proposal conforms to the relevant economic policies of the SELLP and the NPPF, giving weight in favour of the proposal. The use has been established on the site for a number of years.

Conclusion

Taking these factors into consideration, the proposal is considered to comply with Policies 1, 2, 3, 4, 24, 27, 33 and 36 of the SELLP, as well as Sections 6, 9, 12 and 14 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

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

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.