DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H11-0481-24**	**Applicant:**	**Mr J Heading**
Proposal:	Storage facility for shotguns, firearms and ammunition		
Location:	The Shed 4a Gimmels Gate Sutton Crosses		
Terminal Date:	24th January 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Not applicable

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to a certificate of lawfulness application to ascertain whether or not the site can establish the lawful storage facility for shotguns, firearms and ammunition continuously for a period of 10 years.

The type of application is a section 191 Lawful Use Certificate.

The location plan shows two storage containers on the site. One of the storage containers is labelled as a firearms store, situated along the eastern boundary of the site. The other container is labelled as a cartridge store.

The submitted unscaled plan indicates the dimensions of the shipping container is 2.5m x 2.5m. The other storage unit is indicated to be 8.5m x 9.5m made of timber and profile steel with a concrete floor.

Site Description

Sutton Crosses comprises a number of groups of dwellings and buildings spread out along rural lanes to the south side of Long Sutton and separated from it by the A17. These are outside of the settlement boundary and in the countryside. The site is a fenced area of land, located on Gimmel's Gate adjacent to other dwellings, buildings and uses clustered close to the junction of Gimmel's

Gate and Roman Bank. From Google Earth imagery it is evident that the site has been sectioned off from 4 Gimmel's Gate over time. In 1999 there is clear evidence that this site was part of the garden of number 4 Gimmel's Gate.

History

H11-1079-97 - Temporary Use for construction of exhibition/conference scenery, plus siting of 4 containers to store material (retrospective). Approved.

H11-0322-99 - Erection of totally enclosed building for storage and assembly of stage scenery units. Approved 2 September 1999.

H11-0828-19 - Use for the siting of a residential caravan/lodge. Refused 9.12.2019.
This application states that "the storage buildings were used for the applicant's business which has recently ceased."

H11-0931-20 - Demolition of existing shed and replace with new brick shed (retrospective). Approved 18.12.2020
This proposal related to a 'brick shed' in respect of the residential property 4 Gimmels Gate, Long Sutton.
The Local Planning Authority were clear within the accompanying officer report that the "purposes of the outbuilding is for domestic storage. Therefore the development is incidental to the enjoyment of a dwelling", which is No. 4 Gimmel Gate.

H11-0934-20 - 4A Gimnels Gate, Long Sutton - Siting of touring Caravan - retrospective - Long Sutton. Refused. Appeal Dismissed 21.6.2021.
Within the officer report for this application, the following was stated;
"In view of the description of the proposal in the application form and enforcement notices on the file ref.ENF-269-20-E11, the applicants had been living in the bungalow at No.4 until October 2019. Then the applicants moved to the caravan for permanent residential use subject to this application which is sited in the adjacent yard."

PE-00316-19 - Proposed mobile home/lodge.

PE-00174-23 - Purpose built secure unit which allows clients to store or collect firearms/ammunition at their convenience under supervision of site security.

Consultation Responses

None received.

Planning Considerations

This is a legal determination and planning policy is not relevant to the determination as to whether the claim is indeed lawful. The decision is based upon the case officer's judgement as to the case being proven on the balance of probabilities.

The application relates to the use of the site in 2 storage units for shotguns, firearms and ammunition continuously for a period of 10 years.

The supporting information submitted with the application is as follows:

-Two photos showing firearm storage within a shipping container. The photos are not date stamped or related to a particular year.
-An external photo of the storage unit which is not time stamped.

There are 6 photos of a Firearm book which contain the following information:
-Photo of front cover.
-Dates of names and reference numbers from 10/09/06 to 28/05/08 and labelled Page 1.
-Dates of names and references from 17/01/2012 to 12/03/13 and labelled Page 9
-Dates of names and references of entries dated 24/01/13 and labelled Page 12
-Dates of names and references of entries dated 15/04/24 and labelled Page 31

-Photo of page stating 'owner of register' with the address being John Heading, 4A Gimmels Gate..

Page is Undated.
-Photo of Gates. Not time stamped.

-Correspondence between John Heading to Cheryl Howarth in relation to Council Tax records between April 2023 to April 2024. It has been confirmed that Council Tax banded a property on the site on the 5th June 2024 as residential.
-Correspondence from Richie Brett at Cambridgeshire Police dated April 15 2024 in relation to an individual who had come to the attention of the police, in relation to firearms legislation.

-A plan showing an unscaled plan view of a storage container with measurements marked on of 2.5m x 2.5m with dashed lines indicating shotgun cabinets and Cartridge storage. The materials are indicated to be steel.
-The plan also shows an unscaled plan view of a storage container with measurements of 8.5m x 9.6m.

-Correspondence from Lynda Cairnie - Firearms Licensing Supervisor with Mail history addresses indicating dealer branches of 4 Gimmels Gate showing dates of:
-23/06/2000,
-22/05/2009,
-16/06/2009, and
-18/03/2019

-Certificate of Firearms Dealer Registration valid from 16/4/2024 to 15/04/2027. The certificate is dated 6/3/2024. This certificate refers to the address as 4A Gimmels Gate.

Analysis

Photographic Evidence

The submitted photographic information is not time stamped and does not show a photograph of every year from 2014 to 2024. The photos appear to be current photo storage and previous years of storage are not submitted. It is not disputed that the photos show the storage being applied for. However, there is no continuous evidence of the use proposed.

No Google Earth images that are time stamped have been submitted to substantiate the use showing the existence of the storage unit every year from 2014 to 2024.

Case Officer investigations of Google Earth imagery shows:

-In 1999 the application curtilage was part of 4 Gimmels Gate with no separate access
-In 2005 a separate access had been created and a shed appeared
-In 2016 the curtilage was separated off from 4 Gimmels Gate and a blue container along the eastern boundary (but bigger than 2.5m x 2.5m was present, and shed along the northern boundary was present.
-In 2018 a higher boundary fence had been erected.

There is evidence of a gradual separation of 4a to 4 over a long period of time, but this is no different to a garden being sectioned off.

There is insufficient evidence of photographic records to substantiate a continuous use of that particular storage unit on site for 10 years.

Photos of Firearm Book

The submitted evidence of the Firearm Books do not show continuous records for a 10 year period showing names and addresses of purchases. No bank account details are submitted cross referencing the purchases for a continuous period of 10 years. No bank account details showing the address as 4A Gimmels Gate displaying financial purposes have been submitted. The Firearms Book address is undated. The records are extracts from various years, but do not represent a continuous record with details of each year from the last 10 years.

It is considered that the evidence is inconclusive.

Firearms Dealer Records

The submitted information about certificated Firearms Dealer records conflict in terms of the exact address that was registered. In 2000, 2009 and 2019 the address of the dealer record is 4 Gimmels Gate. In 2024 it is registered as 4a Gimmels Gate. In planning terms this is not evidence of continuous use of 4A Gimmels Gate, aligning with the red line boundary of the application, as the information conflicts. 4A Gimmels Gate is the planning unit, which has a different and smaller curtilage as 4 Gimmels Gate. This does not establish the lawful use of the planning unit in a continuous period of 10 years. Only partial evidence is submitted, which is not continuous, and the addresses vary. Only recently is the certificate showing 4A Gimmels Gate. The red line boundary plan is set around 4A Gimmels Gate, not around the entire property of 4 Gimmels Gate.

The evidence is therefore inconclusive and conflicting.

Block Plan

Further information was requested in relation to the installation of on site storage. The subsequently submitted information consisted of a photograph of the manufacturing date of the storage unit. No time stamped pictures of installation were submitted.

The proposal does not contain a 10 year photographic record of firearms storage dated stamped every year to show storage over a ten year period, with other evidencing showing installation or other evidence linking the use for each of the proposed storage units.

It is considered that the information is insufficient.

Other information - Planning History

The history section is listed as above and some of the information is relevant to this application.

For a use to be immune from enforcement action, evidence needs to be submitted to identify that the use has subsisted for a continuous period of time for a 10 years, and the actual structures themselves have been used for this consistency with no breaks.

From the history it is apparent that storage did occur on this site, but in 1999 this was for the storage of stage scenery units. No mention at that time was made of the storage of firearms and ammunition. In 2019 it was recorded in the officer report for reference H11-0828-19 that the business had ceased. This is contrary evidence to that has been submitted.

The application for a brick shed under reference H11-0931-20 related to a brick shed for domestic storage for 4 Gimmels Gate. This brick shed was incidental to the enjoyment of the dwelling.

The red line boundary of the application is smaller than the planning unit of the site which would have included 4 Gimmels Gate.

Information from Council Tax and Business Rates

The site 4A Gimmels Gate has no recorded Business Rate activity prior to April 2024 when a field officer recorded that a business was operating from the site and reported this fact to the valuation department.

The site was banded under Band A for residential in June 2024, although attempts were made to establish residential from April 2024. This indicates most likely a small residential unit such as a caravan from this point as Band A is the smallest residential type banded for Council Tax purposes.

Given that there is no information as business activity before April 2024 this is evidence weighing against the proposal on the balance of probabilities.

Google Earth Imagery

Whilst there is evidence from 2016 of a storage shed on the northern boundary, and a shipping container along the Eastern boundary, the dimensions provided for the shipping container are not 2.5m x 2.5m, it is considered that insufficient supporting evidence has been submitted clearly linking the use and the particular storage containers in question.

Whilst the structures show they have been present, Google Earth images do not indicated use.

Conclusion

Case law has established that in order to become immune from enforcement action and therefore lawful, the use being applied for must be continuous for a period of at least 10 years. The use must also relate to the specific buildings on site where the use has operated from continuously. It is also suggested that the planning unit must also have been clearly established as being separate from the host dwelling.

On the balance of probabilities the case is not proven that the use applied for was not continuous, the evidence is not continuous, police evidence shows a use that seems to have operated from 4 and 4A Gimmels Gate, which does not align with the red line boundary of the plan. Photographs are not time stamped or continuous. The planning history conflicts with the accounts of a continuous use, as does records from Council Tax and Business Rates.

The evidence does not clearly show a continuous use of two storage units with no breaks and as such the lawfulness of the use has not been proven.

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.

Recommendation

It is recommended that the lawful development certificate be refused for the reasons set out in the

report.