

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 11 November 2020

(Author: Lucy Buttery - Principal Planning Officer)

Purpose: To consider Planning Application H11-0742-20

Application Number: H11-0742-20

Date Received: 08 September 2020

Application Type: FULL

Description: Change of use of dwelling to office/storage in connection with the business

Location: Silverwood Garden Centre Browns Gate Long Sutton

Applicant: Mr & Mrs J Tyrrell

Agent: Mark Simmonds Planning Services

Ward: Long Sutton

Ward Councillors: Cllr A C Tennant
Cllr J Tyrrell
Cllr D J Wilkinson

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H11-0742-20>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The applicant is a District Councillor.

2.0 PROPOSAL

2.1 This is a full planning application which seeks permission for the change of use of the dwelling to office/storage in connection with the business at Silverwood Garden Centre, Browns Gate, Long Sutton.

2.2 Application ref. H11-0372-16 relates to a replacement dwelling which is currently being constructed to the west of Silverwood Garden Centre. Condition 12 of this approval requires the demolition of the dwelling that is the subject of this application within 3 months of the first occupation of the replacement dwelling. This condition was imposed to ensure no net increase in dwellings given that the site is located in the countryside in planning policy terms.

2.3 The submitted floor plans show that minor internal alterations would be carried out in order for the building to accommodate a reception area, 3 offices (2 of which could also be used as meeting rooms), a washroom, shower room, accessible w/c and kitchen. The building would be used in conjunction with businesses owned by the applicant.

2.4 It should be noted that the storage element of the proposal relates to the storage of business files (which is effectively ancillary to the effective functioning of a business), rather than B8 use.

3.0 SITE DESCRIPTION

- 3.1 The site accommodates a detached two storey dwelling which is set back approximately 12 metres from Brown's Gate to the east. There is hard landscaping to the front of the property and a small garden area to the rear.
- 3.2 There are terraced properties opposite. The site is adjoined by Silverwood Garden Centre to the west and south. To the north is a large grassed area of land associated with the property which abuts the junction of St James Road and Brown's Gate.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

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
Policy 10 - Meeting Assessed Housing Requirements
Policy 11 - Distribution of New Housing
Policy 30 - Pollution
Policy 36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 5 - Delivering a sufficient supply of homes
Section 6 - Building a strong, competitive economy
Section 12 - Achieving well-designed places

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H11-0372-16 - Replacement dwelling (approved June 2016)

6.0 REPRESENTATIONS

6.1 Long Sutton Parish Council

Objects on the basis that the applicant was granted approval for the replacement dwelling on the basis of the findings of a structural survey which found that the property was suffering from subsidence. South Holland District Council has set a precedent regarding the insistence of the demolition of a building after similar permission was given for a new build in the same circumstances within a short distance of this application. Please refer to Condition 12 of the Decision Notice for Application No H11-0712-14 - Mr & Mrs Cousins. This precedent must be upheld to ensure transparency and continuity. In addition the applicant has a large business complex adjoining both the old and the new dwellings which has existing vacant building space for offices on site and this should be considered for use in preference to the amendment in order not to negate the demolition order. The existing dwelling was declared uninhabitable to support an application for a new dwelling and therefore it should not be retained leaving the possibility to convert it back to a dwelling in future.

6.2 LCC Highways/SUDS

Does not wish to restrict the grant of permission.

6.3 Public

2 comments received, summarised as follows:

- Planning permission was granted for the applicant's new dwelling on the basis that the existing dwelling was suffering from subsidence and was to be demolished.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

The key planning considerations in this case are:

- Principle
- Residential amenity
- Highways and parking
- Flood risk
- Other considerations

7.2 Principle

7.3 As indicated in Paragraph 47 of the National Planning Policy Framework, 2019, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

7.4 The site is located outside of any settlement boundary as set out in the South East Lincolnshire Local Plan (SELLP), 2019 and is, therefore, classed as being in the countryside in planning policy terms.

7.5 Policy 1 (Spatial Strategy) of the SELLP states that development in the countryside will only be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The building would be used in conjunction with businesses owned by the applicant, the current offices for which are sited within the neighbouring garden centre. The current offices provide no privacy for meetings and other work of a sensitive nature (e.g. accounts). The change of use of the dwelling would be a practical solution to achieving a better office environment and, given that the applicant's will continue to live in the vicinity (upon completion of the replacement dwelling), it would also minimise travel by car.

7.6 Policy 7 of the SELLP (Improving South East Lincolnshire's Employment Land Portfolio) indicates that new employment development/businesses or the extension of an existing business outside an allocated employment site will be supported provided that the proposal involves the re-use of previously developed land or the conversion/re-use of redundant buildings. In this case the building is currently a dwelling (which would otherwise be demolished) and is therefore brownfield.

7.7 The above policy is in accordance with the general thrust and aims of the National Planning Policy Framework, 2019 which supports sustainable economic development and growth. Paragraph 83 indicates that Local Planning Authorities should support the sustainable growth and expansion of all types of business in rural areas and Paragraph 84 highlights that it should be recognised that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements.

7.8 Given that a replacement dwelling is being constructed, there would be no net loss of dwellings.

7.9 In light of the above, no objections are raised in principle to the proposed change of use.

7.10 Residential amenity

7.11 The closest residential properties to the site are located on the opposite side of Brown's Gate.

An office use is generally considered as being compatible with residential for the purposes of planning, and given the number of employees it is indicated would be based in the offices, it is not considered that the proposed change of use would have a material adverse impact on the amenity of residents close by in terms of noise or other disturbance.

- 7.12 The current hours of work for employees are 07:15 to 18:00 Monday to Friday and 09:00 to 12:00pm on a Saturday. On occasion, Mr Tyrrell (as a director of the businesses) may commence work as early as 05:00 but it has been advised that this is very unusual and would only be if a particular need arose.
- 7.13 Overall, given the relatively low key nature of the proposal, there are not considered to be any significant or demonstrable adverse impacts relating to residential amenity that would warrant refusal of this proposal. The proposal is considered to accord with Policies 2, 3 and 30 of the Local Plan in respect of their provisions on residential amenity.
- 7.14 Highways and parking
- 7.15 The existing access points on Brown's Gate would be utilised by employees and any visitors. The Highways Authority does not wish to restrict the grant of permission on highways grounds. The proposal is therefore considered to be acceptable in terms of highway safety and in accordance with Policy 2 of the Local Plan which requires it to be demonstrated that access and vehicle generation levels will be acceptable.
- 7.16 It has been indicated that 6 employees would use the office space created and that the number of customers visiting the offices each day would be between 1-3. The building has a large frontage which would be capable of accommodating this number of vehicles, albeit with some tandem parking. Furthermore, the number of vehicles the frontage is capable of accommodating exceeds the minimum standard of 4 spaces (based on the floor area of the building) set out in the SELLP for such a use. It is therefore, on balance, considered acceptable in this regard.
- 7.17 Flood risk
- 7.18 National Planning Practice Guidance states that the Sequential Test for flood risk need not be applied for change of use applications.
- 7.19 The application site is located in Environment Agency Flood Zone 3a. Offices are classed as 'less vulnerable' in flood risk terms and are considered appropriate in such an area. Furthermore, the proposal would be a lower vulnerability than the current use ('more vulnerable').
- 7.20 It is therefore considered acceptable in flood risk terms and in accordance with Policy 4 (Approach to Flood Risk) of the SELLP.
- 7.21 Other considerations
- 7.22 Representations have been received from the Parish Council and two residents regarding the structural integrity of the building. The Parish Council objects on the basis that the applicant was granted approval for the replacement dwelling on the basis of the findings of a structural survey which found that the property was suffering from subsidence. It is noted that a letter from a structural engineer did form part of the submission for H11-0372-16, however this was not the reason that the condition requiring the demolition of the dwelling was imposed. The planning reason it was imposed was to prevent the occupation of both dwellings given that the site is located in the countryside in planning policy terms, which is a location where new residential development would typically be restrained.
- 7.23 It has been confirmed that following the approval of H11-0372-16, the drainage - which was considered by the structural engineer to have led to the subsidence - has been replaced in order to prevent water from the pipe causing further damage. It has been advised that since this work was undertaken, the previously identified issues have not worsened and one of the applicant's businesses would be able to carry out underpinning of the building if required in the

future. Building Control would be involved in such a process.

- 7.24 In their objection to the application, the Parish Council suggested that there are vacant buildings in the vicinity within the applicant's ownership that could be utilised for the proposed use. The applicant has advised that the buildings referred to by the Parish Council are not vacant at present and are not suitable for the individual offices proposed. In any case, the SELLP provides policy support for the re-use of brownfield sites for employment/business purposes, which this site is.

7.25 **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.

7.26 Conclusion

- 7.27 Taking the above into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 7, 30 and Appendix 6 of the South East Lincolnshire Local Plan (2019), as well as Sections 6 and 12 of the National Planning Policy Framework (2019).

8.0 **RECOMMENDATIONS**

- 8.1 **Grant permission subject to the conditions listed at Section 9.0 of this report.**

9.0 **CONDITIONS**

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.
2. The development hereby permitted shall be carried out in accordance with the following approved plans:
A1494-01
A1494-11

Reason: For the avoidance of doubt and in the interests of proper planning.
3. This permission shall operate for the benefit of Mr and Mrs J Tyrrell and the businesses they are associated with at the time of permission being granted, and the use hereby approved shall be terminated at such time as those businesses cease to occupy the premises.

Reason: To allow the Local Planning Authority to retain control over the future use of the premises.
This Condition is imposed in accordance with Policies 1 and 7 of the South East Lincolnshire Local Plan, 2019.
4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>
5. Please note that a separate s73 application is required in order to vary Condition 12 of H11-0372-16 to allow the retention of the existing dwelling.

Background papers:- Planning Application Working File

Lead Contact Officer

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Appendices attached to this report:

Appendix A Plan A

MapThat Scale Print Title

