

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0825-24 **Applicant:** L C Packaging UK Ltd

Proposal: Proposed construction of concrete hardstanding, erection of a galvanised palisade fence around the perimeter of hardstanding

Location: L C Packaging Uk Ltd Bridge Road Long Sutton

Terminal Date: 27th November 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Description of Proposal

This is an application for a lawful development certificate for the proposed construction of concrete hardstanding, erection of a galvanised palisade fence around the perimeter of hardstanding at LC Packaging UK LTD, Bridge Road.

The hardstanding would cover an area of approximately 1400sqm, and would be constructed of impermeable concrete, with provisions made for surface water runoff to be accommodated via porous land within the wider site. This hardstanding would be enclosed with 1800mm high perimeter fencing, with a three meter wide, 1800mm high gate to enable access.

Site Description

The site is located outside of any settlement outlined within the South East Lincolnshire Local Plan, 2019. That being said, it forms a part of the employment site LO001 outlined within Policy 7. The site has a clearly defined industrial nature.

Currently present on the site is a grassed area, with a small bund located to the south.

Relevant History

H10-0972-03 - Permission Renewal. Industrial/warehousing/transport development (outline renewal application H10/1002/00). Approved 12/11/03.

H10-1002-00 - Permission Renewal. Industrial/warehousing/ transport development - Renewal of H10/0946/97. Approved 06/12/00.

H11-0866-00 - Full. Proposed storage building. Approved 14/09/00.

H10-0946-97 - Permission Renewal. Industrial/warehousing/ transport development. (Renewal of H10/1078/94). Approved 30/11/97.

H10-1078-94 - Permission Renewal. Industrial/warehousing/ transport development. (Renewal of H10/1030/90). Approved 08/02/95.

H10-1030-90 - Outline. Industrial/warehousing/ transport development. Approved 23/12/91

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:

No responses received.

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

Evaluation

A local planning authority needs to consider whether, on the facts of the case and relevant planning law, the specific matter is or would be lawful. Planning merits are not relevant at any stage in this particular application or appeal process.

Relevant provisions of the Town and Country Planning Act, 1990

In relation to proposed uses, Section 192 of the Town and Country Planning Act, 1990, provides that:

- (1) If any person wishes to ascertain whether-
 - (a) any proposed use of buildings or other land; or
 - (b) any operations proposed to be carried out in, on, over or under land,would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.
- (2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.
- (3) A certificate under this section shall-
 - (a) specify the land to which it relates;
 - (b) describe the use or operations 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 or operations to be lawful; and
 - (d) specify the date of the application for the certificate.
- (4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.

Assessment - The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, Schedule 2, Part 7 Class J

Schedule 2, Part 7, Class J "hard surfaces for industrial and warehouse premises" of the General Permitted Development Order allows for "development consisting of: the provision of a hard surface within the curtilage of an industrial building or warehouse to be used for the purpose of the undertaking concerned; or the replacement in whole or in part of such a surface".

The Class states the following:

"Development is not permitted by Class J if the development would be within the curtilage of a listed building".

Assessing the proposal against the above, the proposal is considered to be in compliance. The site is not within the curtilage of a listed building.

The Class goes on to outline the following conditions with which a proposal must comply with in order to be considered Permitted:

"a) where there is a risk of groundwater contamination the hard surface must not be made of porous materials; and

(b) in all other cases, either:

(i) the hard surface is made of porous materials, or

(ii) provision is made to direct run-off water from the hard surface to a permeable or porous area or surface within the curtilage of the industrial building or warehouse."

Assessing the proposal against these conditions, it is considered that while the proposed surface is non-porous, adequate provisions have been made to direct surface water run-off to a permeable area within the warehouse's curtilage.

As such, the proposed hardstanding is considered to be in conformity with the provisions of Schedule 2, Part 7, Class J of the Permitted Development Order.

Assessment - The Town and Country Planning (General Permitted Development) (England) Order 2015 as amended, Schedule 2, Part 2, Class A

Schedule 2, Part 2, Class A of the Permitted Development Order enables the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure. This class states:

"Development is not permitted by Class A if:

(a) the height of any gate, fence, wall or means of enclosure erected or constructed adjacent to a highway used by vehicular traffic would, after the carrying out of the development, exceed:

(i) for a school, 2 metres above ground level, provided that any part of the gate, fence, wall or means of enclosure which is more than 1 metre above ground level does not create an obstruction to the view of persons using the highway as to be likely to cause danger to such persons;

(ii) in any other case, 1 metre above ground level;

(b) the height of any other gate, fence, wall or means of enclosure erected or constructed would exceed 2 metres above ground level;

(c) the height of any gate, fence, wall or other means of enclosure maintained, improved or altered would, as a result of the development, exceed its former height or the height referred to in paragraph (a) or (b) as the height appropriate to it if erected or constructed, whichever is the greater; or

(d) it would involve development within the curtilage of, or to a gate, fence, wall or other means of enclosure surrounding, a listed building."

Assessing the proposal against the above, it is considered that the proposed 1800mm would not be located adjacent to a highway, and therefore, would be in conformity with the provisions of this class. The site is not listed, nor is it used as a school.

As such, the proposal is considered to conform to the provisions of Schedule 2, Part 2, Class A of the General Permitted Development Order.

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

The proposal constitutes permitted development under Part 2, Class A and Part 7, Class J of The Town and Country Planning (General Permitted Development) (England) Order 2015

Recommendation

Based upon the above assessment, it is considered that a Lawful Development Certificate should be issued under Section 192 of the Town and Country Planning Act, 1990.