

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H14-0187-20 **Applicant:** Mr J Robinson
Proposal: Change of use from commercial land to residential garden/paddock field
Location: Cuckoo Bridge Farm North Drove Spalding
Terminal Date: 22nd April 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
29	The Historic Environment
28	The Natural Environment
30	Pollution

National Guidance

National Planning Policy Framework 2019

NPPF 2019.

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
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Change of use from commercial land to residential garden/paddock field.

Since submission additional information regarding the potential contamination of the land has been submitted.

Site Description

The land in question consists of some 9410.00 sqm of land, currently in commercial haulage use and includes a 500sqm building in general industrial use.

History

H14-0234-14. Change of use of building from offices to residential bungalow. Prior Approval granted 25-04-14.

Consultation Responses

Pinchbeck Parish Council

No response received.

LCC Highways & SUDS Support

Does not wish to restrict the grant of permission.

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 is acceptable and accordingly, does not wish to object to this planning application.

LCC Historic Environment Officer

No archaeological input required.

SHDC Environmental Protection Officer

Raised Objections to the originally submitted proposal and request further information prior to determination that show that the site is suitable for the proposed residential use.

The site has current / previous use for vehicle service and repair, as well as HGV parking. I therefore request as a minimum that the applicant provides a comprehensive desk study prior to determination. This should include access to the large building on site.

This is supported by NPPF paragraphs 178 & 179, and Paragraph: 007 Reference ID: 33-007-20190722 of Guidance 'Land effected by contamination 'an applicant may be required to provide at least the report of a desk study and site walkover.

This may be sufficient to develop a conceptual model of the source of contamination, the pathways by which it might reach vulnerable receptors and options to show how the identified pollutant/contaminant linkages can be broken.

Unless this initial assessment clearly demonstrates that the risk from contamination can be satisfactorily reduced to an acceptable level, further site investigations and risk assessment will be needed before the application can be determined.

As a result of this objection additional information was sought, and a report submitted. Consequently, the Environmental Protection Officer maintains objections, being still of the opinion that a desk study and site investigation is required at this location to ensure the site is suitable for the proposed use, even more so now that the Council is aware that a land raise of at least 1m has occurred, with the soil taken from undocumented sites.

The Environmental Protection Officer can appreciate the consultants view that this will be a paddock, however from the Environmental Protection perspective it is for a proposed residential end use, and it is not possible to curtail its use in the way he is suggesting. In addition, officers are not fully aware of the site history, including how long the site was used for vehicle service and repair, and what its development history was. There are too many unanswered questions at this stage, and the only way to get that information is to begin with a desk study which must include a study of the historical mapping.

Would suggest a search for below ground fuel tanks as well, if the mapping indicates a long history as a haulage yard.

SHDC Environmental Health Officer

No objection.

Planning Considerations

Principle of the use of the land

The change of the use of this land could be acceptable in principle, as it would remove a potentially disturbing commercial use adjacent to an unrelated dwelling; however there are matters of detail, and in particular the potential for land contamination, that are to be resolved, and this is discussed further below.

Visual appearance

The change of the use of this land and building could be of benefit to the wider area.

Pollution matters

Paragraph 7.4.1 of the South East Lincs Local Plan sets out that *All new development must take into account the potential environmental impacts on people, buildings, land, air and water arising from the development itself, existing land uses and any former use of the site, including, in particular, adverse effects arising from pollution.*

Policy 30: Pollution, sets out the Council's policy stance with regard to potentially polluted land, and impacts upon future uses, and is clear that

Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided.

Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks. Proposals will not be considered favourably unless the land is, or can be made, suitable for the proposed use.

The applicant, via the agent, has been advised of the Council's concerns and a request that a desk study and site investigation is be submitted, to ensure the site is suitable for the proposed use. As a result additional information was submitted, which has been considered, and this brought to light that the land level on part of the site has been increased. The Council's Environmental Protection Officer still considers that a desk study and site investigation is required at this location to ensure the site is suitable for the proposed use.

It is not considered that the use of conditions would be adequate on this site.

A further request for the submission of a desk study and site investigation, but this has not been forthcoming.

Archaeology

The LCC Historic Environment Officer was consulted on this application and concludes that no archaeological input is required.

Conclusion

As can be seen from the above, the Council considers that although the use of this land for residential garden and paddock may be of benefit, it is not considered that such a use can be agreed in the absence of a desk study and site investigation being considered, and the consideration of any remedial works that may be required. As this is the case this application is recommended for refusal, in accordance with the policies of the SELLP and the provisions of the NPPF.

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.