

Barmach Limited
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LN1 2XG

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TOWN AND COUNTRY PLANNING ACT 1990 SECTION 73A CONTINUATION

Reference: H14-0223-24 **Date of Decision:** 9th May 2024
Applicant: Mr N Odedra
C/O Barmach Limited
15 The Quays
Burton Waters
Lincoln
LN1 2XG
Location: 75 Church Street Pinchbeck Spalding
Description: Change of use of part of building from builders yard and offices to bathroom showroom (retrospective) - approved under H14-0440-10. Modification of Condition 3 to allow extension of opening hours

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

- 1 The increase in the opening hours would result in an unacceptable impact upon the residential amenities of neighbouring occupiers, including through an increase in noise and disturbance to the detriment of the amenity of nearby residents and would result in an intensification of use that would be to the detriment to the character of the area, and as such would be contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.
- 2 The application site is located on Church Street, a principal route through the settlement of Pinchbeck, and the area comprises a number of features that could give rise to pedestrian and vehicle conflict.

Nearby to the site lies a pelican crossing along Church Street, with associated zigzag markings on the carriageway extending across the frontage of the site. A bus stop is also located adjacent the site, with buses also providing a pick-up and set-down on the pavement close to the application site frontage. Close to the marked bus stop opposite the

site is a lay-by capable of providing on-street parking for several vehicles.

These features, amongst others, were identified within the recent appeal decision on site and it was concluded that the resultant use, along with high probability of pedestrian and vehicle conflict, with customers either accessing the proposed shop on foot, or pedestrians making use of the adjacent footway, waiting at the pelican crossing or for a bus. In combination with vehicles manoeuvring within the area of hardstanding and also with vehicles potentially queuing to access the additional area to the rear of the shop, and with deliveries to the premises also requiring accommodation, it was considered that the overall situation, without adequate management would be likely to lead to harm to highway safety.

The increase in the opening hours that would provide openings prior to 08:00am and after 17:30pm would result in the use of the site, for a Class E use, within hours that are likely to be subject to footfall and vehicular activity of an increased intensity. This increase is considered to exacerbate the potential conflict identified within the recent appeal decision on site and as such, would be likely to be harmful to highway safety, being at conflict with South East Lincolnshire Local Plan, 2019 Policy 36 and Section 9 of the National Planning Policy Framework, December 2023.

Notes:

The determined plans are:

Application Form
AL0102 Rev P02
AL0101 Rev P02

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. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reason(s) for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

<https://www.gov.uk/appeal-householder-planning-decision>

<https://www.gov.uk/appeal-planning-decision>

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning-inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice OR the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: <https://www.gov.uk/planning-inspectorate>. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.