

## DECISION DELEGATED TO DEVELOPMENT MANAGER

|                        |                                        |                   |               |
|------------------------|----------------------------------------|-------------------|---------------|
| <b>Application No:</b> | H14-0328-20                            | <b>Applicant:</b> | Lambs Flowers |
| <b>Proposal:</b>       | Erection of cold store - retrospective |                   |               |
| <b>Location:</b>       | Herdgate Lane Pinchbeck Spalding       |                   |               |
| <b>Terminal Date:</b>  | 12th June 2020                         |                   |               |

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

|    |                                                               |
|----|---------------------------------------------------------------|
| 01 | Spatial Strategy                                              |
| 02 | Development Management                                        |
| 03 | Design of New Development                                     |
| 07 | Improving South East Lincolnshire's Employment Land Portfolio |
| 33 | Delivering a More Sustainable Transport Network               |

#### 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        |
| WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD | 0      | 0       | 0       | 1        |
| SHDC INTERNAL                                | 0      | 0       | 0       | 1        |

## **CASE OFFICER ASSESSMENT**

### **Proposal**

Erection of cold store - retrospective.

### **Site Description**

The site is an established horticultural business located to the south of Herdgate Lane, within the open countryside.

The cold store in question has been built in the centre of the site and is surrounded by other horticultural buildings and glass houses.

### **History**

None relevant to this development.

### **Consultation Responses**

Pinchbeck Parish Council

SHDC Environmental Protection

No objection but would wish to attach the following condition:

Noise from fixed plant and machinery shall not exceed the background noise level by more than 5dB(A) when measured as a 15 minute L(A)eq at any residential boundary not within the applicant's ownership.

### **Highways & SUDS Support**

Herdgate Lane is a single-track road, of a low constructional standard, consistent with its principal function, which is to provide access to tend crops growing in the surrounding fields and take those crops to market. Over the years, there has been an incremental increase in commercial operations all along Herdgate Lane and a commensurate increase in Heavy Goods Vehicles using the road to serve those operations. This HGV activity has greatly accelerated the deterioration of the fabric of Herdgate Lane. The damage has been of concern to the highway authority for several years.

The highway authority recognises that the Applicant company is an established, thriving business in this location and has no desire to hinder its ability to trade. However, the Authority does have a duty to ensure the public purse is not unduly burdened by reason of a disproportionate expense in repairing the damage caused to minor unclassified rural roads by extra-ordinary HGV use.

It is therefore requested that the following condition, or similar, is attached to any consent that may be granted for the proposed development.

*The building hereby permitted shall be used to store and pack only produce grown by the Applicants or their successors within the Herdgate Lane site and shall not be used to store or pack produce grown elsewhere, by others.*

*Reason; To ensure that Heavy Goods Vehicle movements along the minor unclassified roads serving the permitted development are limited to only those that are necessary for growing on the Herdgate Lane site and to take produce grown there to market.*

### **Welland and Deepings Internal Drainage Board**

Comment - It is the responsibility of the riparian dyke owner(s) to make sure that the dyke is periodically inspected, maintained, jetted etc so that it can adequately store and convey the new roof water now being discharged into it sufficiently without causing issues to anyone else as a result.

### **Third Parties**

None received.

## **Planning Considerations**

### Principle of development

Policy 1 of the South East Lincolnshire Local Plan, 2019 indicates that new development will be permitted in the countryside where it 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. Explanatory text indicates that there are certain types of use that need to function in the countryside, such as agriculture and forestry.

The National Planning Policy Framework, March 2019 promotes sustainable economic growth. Paragraph 83 specifically indicates that planning policies and decisions should support the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings.

In accordance with the above policy and advice, therefore, no objections are raised in principle to agricultural or horticultural development in the countryside.

### Visual appearance

The cold store is seen in the context of the wider development on the site and there are no clear views of the building from outside the site. The building is functional in nature and is read as part of the horticultural complex.

### Noise Impact

This part of Pinchbeck is sparsely populated, however due to the nature of the building the EHO has suggested a condition to protect the residential amenities of adjoining occupiers from noise. It is considered that this condition is reasonable.

### Highway safety and capacity

Herdgate Lane is a single-track road, of a low constructional standard and the concerns of the LCC Highway Service are set out above. There is a balance to be struck between the road network use and support to local business, and the condition suggested by LCC would be a reasonable imposition and would deliver development in accordance with Policies 1, 2 and 3 of the SELLP and the intentions of the NPPF 2019.

## **Conclusion**

It is considered for the reasons set out above that the proposal is acceptable in terms of Policies 1, 2 and 3 of the SELLP and the intentions of the NPPF 2019, provided the suggested conditions set out in the draft decision notice are imposed. It is recommended that this application be granted.

## **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.