

DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No: H14-0354-20 **Applicant:** Mr J Robinson

Proposal: Change of use from commercial land to residential garden/paddock field - re-submission of H14-0187-20

Location: Cuckoo Bridge Farm North Drove Spalding

Terminal Date: 31st August 2020

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
28	The Natural Environment
29	The Historic 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
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

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

The application is supported by a Stage One Environmental Desk Study and further environmental studies, and seeks to overcome the previous reason for refusal on this site.

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

H14-0187-20. Change of use from commercial land to residential garden/paddock field. REFUSED.20-04-20, for the following reason:

The application has failed to provide sufficient information in the form of desk study and site investigation to inform the determination of this application and to set out potential remediation. As a result the Council cannot determine that the change of use can take place without the potential for harm to land users and the public. The application is not considered to be in accordance with the requirements of Policies 2 and 30 of the South East Lincolnshire Local Plan 2019 and the guidance of the NPPF 2019.

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 Historic Environment Officer

No archaeological input required.

SHDC Environmental Protection Officer

Following a significant level of negotiation, the EHO now states that she has reviewed the Stuart Guy Consulting report 'Environmental Site Investigation of Cuckoo Bridge Farm, North Drove, Spalding, Linc PE11 3JU dated 15th July 2020 report number 20-04-01/2 and Mr Guys email of 6th August 2020 which states that he is comparing the test data to the published ATRisk generic Assessment Criteria. On that basis, am satisfied that a safe development can be achieved at this location. Both the report and the email should form part of the approve plans at this location.

For future reference, this department, in accordance with the guidance from the government, accept C4SL's and commercially available GAC, as well as consultant derived GAC using the latest CLEA model.

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. Conditions are proposed to remove permitted development for domestic structures and fencing, in order to control the visual impact of this change of use of the land, given that it is with the countryside.

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.

The applicant, via the agent, was 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. The Council's Environmental Protection Officer now considers that the works proposed are adequate.

Archaeology

No archaeological input is required. This was clarified by the previous application.

Conclusion

The proposals and submission are now acceptable and overcome the previous reason for refusal.

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.