

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0771-23 **Applicant:** A1 Statics Limited

Proposal: Proposed change of use to storage and distribution (B8) including the erection of a 2.4m steel palisade fence

Location: Land Adj The Old Gatehouse 117 Wardentree Lane Pinchbeck

Terminal Date: 23rd November 2023

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
07	Improving South East Lincolnshire's Employment Land Portfolio
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 9 - Promoting sustainable transport
 Section 12 - Achieving well-designed places
 Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

The proposal seeks planning permission for the change of use to storage and distribution (B8), including the erection of a 2.4 metre steel palisade fence. The site would be used for storage and distribution of caravans. Little formal details have been provided of the scale of this operation. It has been mentioned by the applicant that the works would include using the adjacent dwelling (The Old Gatehouse) as a storage/ office space, although no details have been provided and the dwelling has been omitted from the site location plan.

The site has previously benefited from B8 use, although this permission has since lapsed.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South-East Lincolnshire Local Plan, 2019 (SELLP). The site is located within the wider Wardentree Lane area, which is characterised by industrial sites. Despite its location within Wardentree Lane, the site is omitted the Wardentree Lane employment area designated within Policy 7 of the SELLP.

The site comprises approximately 2100sqm of hard standing. To the east and west are large trees and hedges. To the south is a steel palisade fence approximately 2 metres in height. The site is adjacent to and displays a strong relationship to "The Old Gatehouse", a residential property.

Relevant History

H14-0873-15 - Full. Proposed Change of use to storage and distribution (B8) including the erection of 2.4m high steel palisade security fence. Approved 04/01/16.

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:

Welland and Deepings Internal Drainage Board

No comment

Highway and Lead Local Flood Authority

Have requested additional information from the applicant.

Environmental Protection

23/10/23 - "I request a standard contaminated land condition be applied at this location."

03/11/23 - "standard working hours conditions to protect amenity of nearby properties no burning permitted on site"

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, one letter of representation has been received.

This can be summarised as:

-Fire hazard due to storage of flammable materials

- Vehicular access is inappropriate for the proposed use
- No toilet facilities present
- Development would be an eyesore
- Inaccuracies in the application documents

Key Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The SELLP, is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as a "sub-regional centre" within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

In order to establish the principle of development for commercial properties, Policy 7 of the SELLP must be considered in conjunction with Policy 1. Policy 7 outlines seven criteria for proposals to be assessed against. Taking each point in turn, the following is considered:

- Insufficient evidence has been provided to evaluate if there would be no conflict. While the area is characterised by industrial developments, the proximity to The Old Gatehouse makes the site sensitive to development. While it has been stated that the dwelling would be converted to storage, this has not been ratified within a formal document. This dwelling has been excluded from the redline boundary within the site plan, instead being outlined in blue. Without assurances of how the use would relate to The Old Gatehouse, it cannot be assured that the proposed use would not conflict with any neighbouring uses. As such, the proposal fails to achieve the aims of criterion a.
- Insufficient evidence has been provided as to how the site would appear and the impact it would have on the character of the area. While the commercial nature of the Wardentree Lane area would somewhat naturalise the use, without further details the character impact could not be assured.
- As within point b, insufficient evidence has been provided on how the site would appear.
- Insufficient evidence has been provided to gauge the potential highway impact. The Highway Authority have requested more information which has not been forthcoming. During a telephone conversation with the applicant some details of how caravans would be transported onto the site were provided; however, these comments have not been subsequently supported via formal documentation as requested. As such, it cannot be properly assessed if there would be an adverse impact.
- The proposal would not impact the viability of other employment sites.
- The site is located adjacent a cycle path. As such, it should be accessible via sustainable modes of transport. However, no details of cycle storage have been provided. Therefore, the proposal does not show full conformity to this point.
- No statement justifying the proposed site has been submitted. As such, it is considered there

currently is not an identified need for the business in this location.

Therefore, it is considered that insufficient evidence has been provided in order to establish whether the principle of development on this site is acceptable. As such, it is considered that the principle is unacceptable.

Layout, Design, Scale and Consideration of the Character of the Area

Section 12 of the NPPF, "Achieving well-designed places", states that "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130, contained within Section 12 of the NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the NPPF and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable. Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design, and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The only information regarding site layout that has been submitted is a block plan/ site layout plan. This plan does not provide enough details on the appearance or scale of the proposed use. As such, while the industrial character of the area would likely naturalise the development, it is considered that insufficient evidence has been provided in order to reach an accurate judgement. These deficiencies create significant uncertainty as to the appearance and likely impacts of the proposal which cannot be rectified at this stage without prejudice to other parties.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be unacceptable. Insufficient evidence has been provided to ensure that the proposal would not cause an adverse impact to the character or appearance of the area. The proposal therefore fails to conform to Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 130 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

While it was stated during a phone conversation with the applicant (27/10/23) that the adjacent residential building would be used as storage, no formal confirmation has been provided despite requests from the Officer. Furthermore, no details of the scale of the operation have been submitted (e.g., number of caravans onsite, number of staff etc). As such, it is considered that an informed decision cannot be reached.

Therefore, a full assessment cannot be made to ensure that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal cannot be considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 111 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Insufficient evidence has been provided in order to properly assess the potential highway impacts. The relevant consultee from the Highway Authority has requested additional information which has not been forthcoming within a formal document.

Therefore, a full assessment cannot be made to ensure that there would be no significant or unacceptable impact on highway safety. As such, the proposal cannot be considered to accord with the provisions of the Section 9 of the National Planning Policy Framework, and Policies 2, 3, 33 and 36 of the SELLP.

Flooding Considerations

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 of the NPPF states " aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". The sequential approach is required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

The site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South-East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the SELLP is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the SFRA as a basis to apply the sequential test.

Within the SFRA the site is classed as danger for most, with a hazard depth of 0.5 - 1 metre.

A flood risk assessment has not been submitted, nor has a drainage strategy. Both have requested by the Planning Officer in order to come to an informed decision. It is considered that without this information, a full assessment of the potential impacts of flooding or the potential site drainage cannot be made. It is therefore considered that the proposal fails to achieve the aims of Section 14 of the NPPF and Policies 2, 3, and 4 of the SELLP.

Planning Balance

As detailed above, Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The Town and Country Planning (Development Management Procedure) (England) Order 2015 at S7(1) requires applications for planning permission to include a plan which identifies the land to which the application relates but also 'any other plans, drawings and information necessary to describe the development which is the subject of the application'. Although validated by the Council, the drawings provided with the application fail to adequately demonstrate the relationship between the proposed development and its setting. Insufficient evidence has been submitted regarding the highway safety, flood risk or drainage of the site. The need for this information was initially raised within the officer response to the previous pre-application enquiry made by the applicant. Following receipt of the application, several attempts were made to seek formal amendments to the proposal.

These deficiencies create significant uncertainty as to the appearance and likely impacts of the proposal which cannot be rectified at this stage without prejudice to other parties. The Local Planning Department did request amended plans; however, these were not forthcoming.

Conclusion

Although it could be possible no planning harm would arise with regard to the character and appearance of the area, this does not outweigh the failure to achieve a high standard of design with regard to impact on neighbouring amenity. Therefore, the proposal does not accord with the development plan taken as a whole.

The usual 'plans' condition necessary to ensure a development is constructed as approved, would not meet the required tests of precision and enforceability due to the deficiencies of drawn information that has been identified. To grant planning permission on that basis would risk unacceptable planning harm.

Consequently, it is recommended that the application is refused.

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.