

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-1200-22 **Applicant:** Mr & Mrs Ruddle
Proposal: Change of use of land to B8 storage and distribution - retrospective
Location: Northgate House Northgate Pinchbeck
Terminal Date: 13th February 2023

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
29	The Historic Environment
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
07	Improving South East Lincolnshire's Employment Land Portfolio
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework 2021**

Section 2 - Achieving sustainable development
Section 3 - Plan-making
Section 6 - Building a strong, competitive economy
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 16 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	0	2
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application seeks full planning permission for the change of use of land to Use Class B8 storage and distribution. This is a retrospective application.

Site Description

The site is located North Gate, in Pinchbeck. The site is outside any defined settlement boundary and within the open countryside. The site is located down a single-track private access with open fields to the north and east, and residential land to the south and west. The application site is well screened with fencing, planning and hedgerow and is not visible from the road. The previous use of the land was associated with Northgate House, the land was a redundant plot that was left to be overgrown. On the site now is 18 green storage containers, located along the western boundary, the site is predominantly laid with gravel. The site is within flood risk zone 3.

History

No relevant planning history.

Consultation Responses

Pinchbeck Parish Council

The Council concluded that the storage and distribution activity should be situated on an industrial site, whereas this current site is bordered by residential communities on three sides, hence this proposed application is not compatible with existing uses, being an industrial use in a residential area. This proposal is, and will have, a negative impact on the amenity of other properties, through noise and disturbance resulting from use, overlooking, overshadowing, smells, light pollution, loss of privacy, dust, vibration and/or late-night activities.

The Parish Council is concerned the development, if approved, may cause traffic problems such as traffic over generation, access or safety problems on roads which are becoming degrading through constant use by HGV's (see page 15 of Design & Access Statement). We are also concerned that approval would create a precedent meaning it would be difficult to object to similar proposals in the future. Additionally, as can be seen on page 8 of the Design & Access Statement the entrance/exit is extremely narrow thus unsuitable/dangerous. Finally, the Parish Council believe the approval of this application would have an unhealthy impact on the area and will also inevitably have an adverse impact on the area.

Conservation Officer

I wish to raise no objection to this proposal from a heritage perspective. Whilst the site is adjacent to a listed building, as highlighted in the design and access statement, the proposed new use will not be visible in the immediate context of the heritage asset and does not feature in prominent views of that building. In addition, the only physical alteration proposed to the site is the continued positioning of storage containers on the site, which can be considered to be an impermanent alteration, which could be easily removed at a later date without harm to the context.

In view of this, I recommend that this application be considered to be in accordance with Policy 29 of the SELLP (specifically section A, subsection 3 of P29), and Section 16 of the NPPF - in that it

preserves the listed asset's significance via a lack of impact.

Therefore, the officer should continue to consider the application in accordance with Policy 29 of the SELLP as well as Section 16 of the NPPF in addition to all other relevant planning policies and guidance.

Environmental Protection Officer

No objection

LCC Highways/SUDS

No objection.

The Application Site is outside of the village and outside of the defined Local Plan development boundary. It is however surrounded by various existing commercial businesses and residential properties so vehicles slowing, waiting and turning off the road and entering the highway here would not be unexpected. The development utilises an existing vehicle access crossing that provides drivers leaving the site with visibility to the left and right that is appropriate for the 40 mph speed limit. A storage use such as this is not one that generally attracts a lot of daily vehicle movements. In view of the above and 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 could operate without having an unacceptable impact upon highway safety and therefore does not wish to object to this planning application.

Black Sluice Internal Drainage Board

The Board have the following comments:

1. The applicant has indicated that a sustainable drainage system is to be used, this believed to be infiltration or soakaways. Provided the applicant has carried out suitable testing to ensure that such methods are suitable, then the Board have no further comments. However, if soakaways/infiltration are subsequently found to be unsuitable, then the applicant will be responsible for all damages caused to their own and any adjacent properties should flooding be caused by the development.

2. There is understood to be an open watercourse on the northern boundary. This watercourse is not owned or maintained by the Board. The applicant is reminded that within common law, they are responsible for the riparian ownership and maintenance for this and any other watercourses which may bound or cross the property concerned. If the applicant wishes to place any structures, such as piped culverts, within any watercourse, then they must obtain the prior written consent of the Board, as per Section 23 of the Land Drainage Act 1991. This is mandatory.

Residents

Two letters of objection have been received citing the following concerns:

- Will there be more units in the future
- If more units are allowed this would reduce the turning area for vehicles
- This is a very dangerous and busy road
- There have been two fatal accidents on this stretch of the roadway
- Cars on the road are causing problems and obstructions
- Do not understand the need for a storage facility

Planning Considerations

Principle of development

As indicated in paragraph 47 of the National Planning Policy Framework, 2021, planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise.

The site is located outside any defined settlement boundary and within the open countryside as defined within the South East Lincolnshire Local Plan (SELLP), 2019.

Policy 1 of the Local Plan (Spatial Strategy) states that development in the countryside will only be permitted that 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.

Policy 7 of the Local Plan (Improving South East Lincolnshire's Employment Land Portfolio) states that:

"New employment development/businesses or the extension of an existing business outside the...allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings. Where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non allocated sites may be acceptable provided:

- a. the development does not conflict with neighbouring land uses;*
- b. there is no significant adverse impact upon the character and appearance of the area;*
- c. the design is responsive to the local context;*
- d. there will be no significant adverse impact on the local highway network;*
- e. there will be no significant adverse impact upon the viability of delivering any allocated employment site;*
- f. proposals maximising opportunities for modal shift away from the private car are demonstrated;*
- and*
- g. there is an identified need for the business location outside of identified employment areas on the Policies Map."*

Whilst it is not a requirement of the Local Plan that all new employment development/businesses be directed to an allocated employment site, Policy 7 does require that it be satisfactorily demonstrated that there is an identified need for the business location outside of identified employment areas.

Although the storage business is located within a rural location, the use of land does not conflict with neighbouring land uses which is a requirement of Policy 7, the immediate neighbouring land uses are agricultural and an engineering business. The storage business is therefore considered not to be out of character with the area. The storage containers are set back down a track and cannot be seen from the highway. Whilst the site is outside any defined settlement boundary, it does not further encroach onto the open countryside. As such it is not considered to conflict with Policy 7 of the SELLP and can on balance be accepted.

As such the principle of such development in this location is acceptable subject to other material considerations.

Design and layout

Paragraph 130 of National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting, among other considerations. 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 as per Policy 2 of the SELLP.

The storage units are green in colour and therefore do blend into area. The units are located down a private track and are not visible from the highway. The application site also screened with fencing and high hedgerow making the visibility of the units even less. It should also be noted that the application site is located near a listed windmill on the adjacent site where Channing Engineering runs from. The proposed new use will not be visible in the immediate context of the heritage asset and does not feature in prominent views of that building. The Conservation Officer has been consulted and has raised no objections.

As such the development is not considered to result in detrimental to the character of the area and is therefore acceptable in terms of its design and siting.

Residential amenity

Paragraph 130 of National Planning Policy Framework (2021) amongst other matters seeks places

with a high standard of amenity for existing and future users. Policies 2 and 3 of South East Lincolnshire Local Plan (2019) set out residential amenity and relationship to existing development and land uses as main considerations when making planning decisions.

The closest immediate neighbour is Northgate House located to the south of the application site. The proposed new storage building would be sited at least 55 metres from this neighbour's dwelling therefore no overbearing impact or unacceptable overshadowing would result.

The proposal would therefore accord with Paragraph 130 of National Planning Policy Framework (2021) and Policies 2 and 3 of South East Lincolnshire Local Plan (2019).

Highway safety

Two letters of objection have been received citing concerns of highway safety and increase in traffic. The concerns are noted, however, the Local Highway Authority has not raised any objections to the proposal. It is therefore considered that the proposals would not result in any unacceptable impact on highway safety.

Flood Risk

The site is located within Flood Zone 3 of the Environment Agency's Flood Maps. The Environment Agency's Flood Maps 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. Also, large parts of the South Holland District lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The Sequential Test is a decision making tool designed to ensure that areas at little or no risk of flooding are developed in preference to areas of higher risk. For development to pass the sequential test it has to be demonstrated that there are no reasonably available alternative sites appropriate for the proposed development located in areas with a lower risk of flooding.

The proposed development is classed as 'less vulnerable' therefore it can be considered in accordance with details contained in the Standard Advice Matrix in the SELLP. As such the exceptions test is not required.

The risk of flooding at the site is very low and it is only the risk of tidal breach during the 0.5% annual probability (1 in 200 chance each year) even with climate change that could lead to flooding.

The Internal Drainage Board has advised that if the applicant has carried out suitable testing to ensure that a sustainable drainage system method to be used, which are believed infiltration or soakaways, are suitable, then the Board have no further comments. However, if soakaways/infiltration are subsequently found to be unsuitable, then the applicant will be responsible for all damages caused to their own and any adjacent properties should flooding be caused by the development.

Given the above the proposal is considered to be in accordance with Policies 2, 3 and 4 of the Local Plan and Section 14 of the National Planning Policy Framework (2021) with regard to their provisions on flood risk and drainage.

Planning balance

The principle of development is considered acceptable, the proposed buildings are considered relatively minor in relation to the wider area and would not unacceptably change the overall appearance of the site and the area. No significant adverse impact is anticipated on residential amenity. The access is considered acceptable and that the proposals would not result in an unacceptable impact on highway safety.

In summary, any adverse impact of granting permission to the proposals would not significantly and demonstrably outweigh the benefits of doing so.

Conclusion

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Taking into account the considerations above, the planning balance is overall positive when assessing the proposals against the policies taken as a whole. In particular, the proposals are considered to comply with Policies 1, 2, 3, 4, 7, 29 and 36 of the South East Lincolnshire Local Plan (SELLP), 2019 and Sections 2, 3, 6, 12, 14 and 16 of the National Planning Policy Framework (NPPF), 2021.

It is accordingly recommended to approve this planning application via delegated powers.

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.