

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0857-23 **Applicant:** We Buy Any Car Ltd.

Proposal: Siting of office building for the purchasing of motor vehicles from the public and temporarily stored until moved off site - retrospective

Location: We Buy Any Car Pod Holland Market Winfrey Avenue

Terminal Date: 21st 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
32	Community, Health and Well-being
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

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	3	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the siting of an office building for the purchasing of motor vehicles which shall be temporarily stored until they are moved off site.

The application proposes to employ one full time employee, who will operate the business from 10:00 - 19:00 Monday - Friday, 9:00 - 18:00 on Saturday and finally, 10:00 - 17:00 on Sundays and Bank Holidays. The application site comprises approximately 11 parking spaces, leaving up to 9 free for the vehicles they purchase and store, with the pod taking 2 of these existing spaces.

The pod features large advertisement boards across all elevations with green strips along the top and bottom and white in the middle.

Site Description

The site lies within the settlement boundaries of Spalding as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). The application is retrospective, with the pod being located since November 2021. The pod is sited in the car park, shared with multiple supermarkets/shops, slightly south to the bus station.

History

H16-0858-23 - Erection of signage - retrospective - Approved

Consultation Responses

Lincolnshire County Council Highways

No objection -

The office occupies two car parking spaces within a substantial privately run car park at the Spalding town centre Holland Market retail park. The office itself has no impact upon the safe use of the local highway network and it is considered that the car park is of sufficient size for the loss of two spaces not to have an impact upon the operation of the local highway network. The highway authority does not therefore wish to object to the grant of Consent for this Application.

South Holland District Council Environmental Protection

No comments.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, three resident comments have been received supporting and objecting to the application and are summarised as follows -

- There is no statement regarding safe customer and vehicle movement
- The entrance to the pod exits directly onto the roadway. The location is a particularly awkward corner/ junction of the car park requiring concentration and therefore I object due to safety reasons for pedestrian and vehicles there
- They park their vehicles in front of the public toilets blocking the access road, covering the pedestrian access on Winfrey Avenue with the cab and the safe blind dimpled crossing to the bus station by placing ramps to trip over
- The transporter parks within 10m of a junction which contravenes the Highway Code, and therefore cannot be permitted on this basis
- I object due to safety reasons
- Since this unit has been sited there has been less parking space for use of the residence
- This would be more suited to be situated in the industrial area of Pinchbeck (Wardentree Business Park)

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Policy/ Principle

Policy 7 dictates the location of commercial development of all scales. The development of new employment opportunities is supported where they can meet the seven criteria laid out within the policy. The proposal here has been assessed against all criteria below-

a) The development does not conflict with neighbouring land uses - This development is located within a commercial and business area surrounded by supermarkets and other shopping buildings. These would all predominately fall under Use Class E, with the We Buy Any Car Pod falling within the same use. The use of the site would therefore appear suitable for its context and, whilst comprising a similar use class, would operate a use that differs to those within the immediate setting, with conditions ensuring the pods use; therefore it doesn't conflict with neighbouring land uses.

b) There is no significant adverse impact upon the character and appearance of the area - There is no adverse impact upon the character of the area, due to the pod being located in an area of commercial and business use and therefore it will be well suited and would not comprise a prominent or unwelcomed addition in this context.

c) The design is responsive to the local context - As mentioned, the area in which the pod is sited, is an area of commercial and business use and therefore the existing uses feature large advertisements on the front of the shops. The pod features a similar design with advertising on all the elevations, albeit comprising a lesser extent in terms of built form and is therefore considered to be responsive to the local context of the area.

d) There will be no significant adverse impact on the local highway network - Lincolnshire County Council Highways, as Local Highway Authority, have provided comment on this application and stated that they have no objections to the proposal. This is detailed within the report below, but overall, the development is not considered to have an unacceptable impact upon highway safety. There have been some concerns surrounding the parking of the vehicle collection lorry; however, on the basis of the assessment as detailed below, further to the highways authority outlining their satisfaction with the proposal in this regard, the Local Planning Authority take the view that there is 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 - There has been no significant adverse impact upon the viability of delivering any allocated employment site as a result of the pod being situated here.

f) Proposals maximising opportunities for modal shift away from the private car are demonstrated - Given the nature of the proposal, comprising a business that purchases vehicles, it is apparent that vehicles will travel to the site, with minimal access or opportunities through other means of access. However, given the nature of the site, which itself is a car park that serves the existing businesses, it is considered that whilst at conflict with point f of policy 7, the proposal remains suitable in this instance.

g) There is an identified need for the business location outside of identified employment areas on the Policies Map - There is no real identified need for this business to be located outside of an identified employment area. Further to this, a resident objection was received which stated that 'This

would be more suited to be situated in the industrial area of Pinchbeck (Wardentree Business Park); however, as much as the proposal would be suited fine in Pinchbeck, the proposal is better suited to this area than near a predominately residential area due to the high amount of commercial shops and existing nature of the uses. Further, it is not uncommon for these 'pods' to be sited within existing supermarket or commercial shopping area car parks. Therefore, despite not being in an employment area, this is still considered to be acceptable.

The proposal, whilst not in direct accordance with the Policy 7, with the aforementioned minor conflicts within Policy 7 criteria which include the proposal not being in an employment area, concerns surrounding the parking of the vehicle collection lorry and delivering on a shift away from private vehicle, the development is still considered to be acceptable when viewed as a whole.

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

Section 12 of the National Planning Policy Framework (2023) specifically relates to 'Achieving well-designed places' and details that "The 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 of the National Planning Policy Framework (NPPF), 2023 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area, that they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. This policy states 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. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it 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.

In respect of the structure, the pod is constructed from steel, with the company branding located across the elevations. The roof is also made of steel, with solar panels. The windows and doors within the pod are made from uPVC frames with glass panels. The lighting within the pod is internal LED spotlights. There is company branding displayed on the external walls of the pod, this made from vinyl stickers the text being green and black with a white and green background. The total height of the sign is around 1.3m with the width being 2.4m.

The shops within this area nearby to the pod are made from brick, with a tiled roof and large open windows. Throughout the designs of the shops, there is large features of bright colours usually advertising the shop using their company logo and colour. It is therefore considered that despite the main buildings being made of brickwork this proposal is acceptable as the colour and material used are featured on other buildings. By making it out of steel and not brick it also means it can be easily moved and returned to its former state, without a need for demolition or extensive works; or should We Buy Any Car decide to relocate. Furthermore, the nature of the site and nearby uses ensures that the proposal will not cause an unacceptable impact upon the street scene and is better suited to an area such as this.

The total height of the pod is 2800mm with the width being 3200mm and the length 4800mm. These measurements are considered to be acceptable as the total is rather small in size and it therefore does not take up a large amount of space in a public car park. If the development was to be larger in size it could then cause issues and look incongruous.

Further, the nature of use, whilst increasing the need for travel to and from the site, would not give rise to a significant increase. The proposed development will be utilised and accessed by those that have a specific need to attend such business and as such, would not result in an unacceptable adverse impact.

Taking account of the scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework.

Impact on Residential Amenity/Land Users

Paragraph 130 of the National Planning Policy Framework (2023) 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; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

The proposal is not considered to cause any unacceptable harm on residential amenities. The property within closest proximity is approximately 80m from the pod, which is situated in a predominantly commercial area. This separation distance is considered to be substantial and more than an adequate gap to make any potential issues surrounding overlooking and overshadowing completely redundant.

Again, due to this distance there is not considered to be any issues surrounding the potential noise increase, this is further supported due to there only being one full time employee on site with the hours of operation being very standard business hours and will be open no earlier or later than the surrounding shops. To ensure no further issues arise from this, this has been condition to ensure the hours remain the same. There is also not considered to be an increase in pollution which could harm residents to an unacceptable degree, given the existing use of the site as a car park and therefore, if not for the pod being sited, a similar extent of vehicles would utilise and arrive to the site in any case.

Overall, it is considered that the proposal is acceptable and benefitted by the distance to nearby residential properties, hours of operation and its location in a commercial area. The proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is 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 National Planning Policy Framework (2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (2023) 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.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards. The use class for this development shall be B8, storage or distribution. This outlines that one space must be provided per 150m squared, the total site area for the We Buy Any Car Pod is 126.72m squared therefore the size in this instance does not meet the total requirements. However, they still have a total of 11 spaces (2 used by the pod) with 9 for storage of vehicles. They are therefore considered to conform with Policy 36 and Appendix 6 of the SELLP and Section 9 of the NPPF as it will mean there is not an unacceptable harm on the road.

The development proposes to site a pod within an area currently occupying 11 parking spaces from the existing car park, reducing the parking from 467 to 456. Representation received from local residents have stated that 'Since this unit has been sited, there has been less parking space for use of the residence. The Local Planning Authority take the view that the reduction of 11 spaces is not considered a significant reduction to adversely impact the parking availability within the area, with the parking being available for the use of shops within its wider vicinity, and therefore, this does not warrant a reason for refusal in this regard.

By using this amount of spaces, it allows We Buy Any Car to store there pod off of the highway and also provides them a safe space to store the vehicles they have purchased until they are moved on. Further representation states that 'The entrance to the pod exits directly onto the roadway. The

location is a particularly awkward corner/ junction of the car park requiring concentration and therefore I object due to safety reasons for pedestrian and vehicles there'. The Local Planning Authority take the view that, whilst vehicular access would be provided and required, to an extent similar to that expressed, if not for the pod being located here than vehicles would be parking in this area regardless and this issue raised could be considered in either instance. As such, the proposal, whilst potentially resulting in a minor rise in incoming vehicles, would not result in a resultant usage of the site that would become increasing unusual for its current context and as such, this is not a substantial reason to warrant a refusal.

A further point raised within representation highlights the concern regarding the parking and use of a vehicle loading lorry. The proposed siting of the pod would result in the need for a vehicle of the nature described, to attend the site for the collection of vehicles. However, given the scale and overall nature of the use, this would occur in varied instances and the vehicles would be parked, within an existing car park, for a temporary period during which the activity will take place. As such, the temporary timings of the vehicles parking and the likely frequency, coupled with the existing use and other elements outlined, this is not considered to give rise to an unacceptable impact that would warrant the refusal of permission in this case.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policies 2, 3 and 36, and Section 9 of the National Planning Policy Framework.

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 proposal represents appropriate development within the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan in its majority, and the provisions of the National Planning policy Framework when viewed as a whole.

The minor conflicts with Policy 7 as outlined are not, in this instance, considered to be fundamental to the proposal and given the nature of the development put forward, it is considered that the balance is in favour of the development in this case.

Conclusion

Taking into consideration these factors, the proposal is considered to comply with Policies 1, 2, 3, 32, 36 and Appendix 6 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF), 2023. Notwithstanding the aforementioned minor conflicts, there are no significant factors in this case that would outweigh the benefits of the proposal; therefore, in considering all the matters raised above the planning balance is in favour of the proposal and the policies referred to above.

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.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.