DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	**H16-0941-22**	**Applicant:**	**Fulney Sand & Gravel**
Proposal:	Change of use from former caravan site land to aggregate supply business - retrospective		
Location:	11 Kellet Gate Spalding		
Terminal Date:	28th November 2022		

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
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 6 - Building a strong, competitive economy
Section 11 - Making effective use of land
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 17 - Facilitating the use of minerals

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
RESIDENTS				

	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a retrospective proposal is for the change of use from part of a former caravan site to an aggregate storage supply business. Aggregates are available to be purchased by the public. The use started in September 2021.

The site stores and bags aggregates arranged in aggregate storage bays which are 1.8m high and 600mm wide with concrete block walls on a 150mm concrete slab base. The main loading and storage area is sat on a permeable hardcore and gravel surface. A staff welfare building is on site with staff parking behind it. The plans show areas towards the rear of the stie for the storage of Lorry and Plant on a permeable hardcore and gravel surface with 8 shipping containers to be used for materials storage. Eight members of staff are employed from office sales staff to lorry drivers and yard operatives. The aggregates are imported to the site and distributed in small loads to landscape gardeners, builders, local authorities and the general public. This is a sui generis use.

The opening hours are 7am - 5pm Monday to Friday and 7.30am to 12.30pm on Saturdays

Site Description

The site is 0.4 Ha in area on the Low Fulney Estate on the east side of Kellet Gate. The site is open and around the western and southern perimeter are aggregate storage bays which are 1.8m x 600mm high with concrete dividers and 150mm slab bases. These divide the various types of gravel of varying sizes. Also present on site are white bagged gravel in standard white builder's bags. A small digger is on site to assist with sorting of gravel. There is no evidence that gravel extraction is taking place on site.

Windcatch Caravan Park is to the north east which is also owned by the applicant. A site office exists immediately to the north on the eastern side of Kellet Gate.

History

The site has previously been used as a camping & caravan club tourer site in the 1990s.

Consultation Responses

LCC Highways and Lead Local Flood Authority

No objections.

There are no reports of incidents where highway safety has been compromised, so not unreasonable to conclude that the facility is safely accessible by both the aggregate delivery vehicles that the operator is using and the vehicles of customers who are purchasing aggregates. They do not consider proposal has an unacceptable impact upon highway safety and therefore does not object to the application.

South Holland Drainage Board
The site is within the Internal Drainage District of the South Holland Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. Consent may be required for Byelaw 3 which relates to the discharge of water to a watercourse (treated foul sewage or surface water).

Byelaw 3 (Surface Water):
The applicant has indicated that they intend to dispose of surface water via infiltration, however, the viability of this proposal has not been evidenced. Ground investigation should be carried out to

determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, they would expect surface water to be discharged to a watercourse. In that case, consent would be required under Byelaw 3. Any discharge should be in line with the Non-Statutory technical standards for sustainable drainage systems (SuDs), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treater Foul Water):
There is a staff welfare building and it is unclear whether there is foul water being produced by this building. If the applicant proposes to discharge treated foul water to a watercourse, consent is required under Byelaw 3.

Section 23, Land Drainage Act 1991:
There is a watercourse not maintained by the Board (a riparian watercourse) adjacent to the north-eastern site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

In addition, a 450mm pipe runs within the site from east to west on the northern site boundary, before outfalling into the Board Maintained watercourse, the B18 Half Mile Dyke (Drain ID:DRN193P1806). This was installed to help facilitate the drainage of the area and therefore is an integral part of the drainage system. As this falls within the applicant's ownership boundary, responsibility lies with them for the maintenance of said structure. The applicant is invited to discuss this with the IDB.

Public response

One resident was concerned about traffic generation and queried if traffic would increase from the use operating as it is at present. It was clarified that this is a retrospective application.

Planning Considerations

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

Policy 1 of the South East Lincolnshire Local Plan 2019 (SELLP) relates to the overall settlement hierarchy of the district and encourages development in more sustainable locations. The site is in open countryside and therefore is not in a sustainable location. However, the property is on previously developed land in an established mixed use area and paragraph 85 of the NPPF states that planning decisions should recognise that sites may need to meet local business and community needs in rural areas which would be adjacent or beyond existing settlements, and in locations that are not well served by public transport. The site is not very far from Spalding in terms of the highway network. Due to the fact that the site belongs to a group of uses that are previously developed, it is not considered that there is fundamental conflict with policy 1 of the SELLP.

Policy 7 of the SELLP seeks to improve employment land that delivers economic prosperity and jobs. Whilst the site is not an allocated employment site, the policy goes on to state that new employment development/businesses or the extension of an existing business outside the above allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land. This applies in this case. Policy 7 contains caveats including the need to ensure that the development does not conflict with neighbouring land uses, there is no significant adverse impact upon the character and appearance of the area; that the design is responsive to the local context; that there will be no significant adverse impact on the local highway network; and there will be no significant adverse impact upon the viability of delivering any allocated employment site. The proposal conforms with all of these criteria. Criterion f) of the policy relates to maximising opportunities for modal shift away from the private car - the proposal due to the nature of its use cannot comply easily with this aspect but its general location near to Spalding is likely to limit delivery distances. Minerals sites are generally limited in number and therefore criteria g) of the policy is thought to be satisfied as there is a general need for sites associated with minerals. As a result, it is considered that the proposal conforms with policy 7.

Paragraph 81 of the National Planning Policy Framework (NPPF) states that planning decisions

should help create the conditions in which businesses can invest, expand and adapt. Paragraph 209 of the National Planning Policy Framework (NPPF) states that it is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs, whilst paragraph 210 e) states that there is a need to safeguard existing sites for the handling and processing of minerals. These weigh in favour of the proposal.

U]Size, Scale, Layout and Design

Policy 2 of the SELLP states that proposals requiring planning permission for development will be permitted subject to impacts including size, scale, layout, density, impact on amenity, character and appearance of the area and the relationship and impact on existing development and neighbouring land uses, the quality of design, access and vehicle generation level and visual intrusion.

The site is a reasonably small site for this type of use, at 0.4 hectares, which helps to limit its impact in terms of the overall scale of the use and on the highway network. There does not appear to have been any complaints about its use since it has been operating. The scheme has not attracted a large volume of neighbour objections.

The site is within a historical mixed use/industrial area but not a designated employment site. Paragraph 84 of the NPPF states that decisions should enable the sustainable growth and expansion of all types of business in rural areas and criterion b) allows for the development and diversification of other land based rural businesses. The site has operated previously as a site for rural agricultural workers and a caravan site. It is considered that the proposed use would encourage a rural business and ensure the site remains economically active within a difficult economic climate.

The proposal does not create amenity concerns in relation to nearby uses as the surrounding uses are industrial/mixed use in nature, apart from the caravan park to the north east. An hours of use condition could ensure the use does not operate during unsocial hours. There is not considered to be a significant impact on the character or amenity of the area. There are no residential properties in the near vicinity that would be affected by the proposal.

Paragraph 85 of the NPPF states that the use of previously developed land, and sites that are physically well-related to existing settlements should be encouraged. The proposal is considered to comply with policy 2 of the SELLP.

Impact on Neighbouring Residents/Land Users

Policy 3 of the SELLP requires all development to create distinctive places, with inclusive design and layout, be sensitive to the landscape character.

The immediate surroundings are not of a high quality environment due to the nature of the mixed use character of the vicinity. Whilst sand and gravel uses are not physically attractive, in this location the use does not detract from the area to any significant degree.

The design and layout of the plot is considered acceptable and does not adversely affect the character of the area. Storage heights are not excessive at present, however, should the use evolve over time it is considered that a condition in relation to restricting storage heights should be imposed. The proposal does not adversely affect landscape character to any significant degree and the proposal does not conflict with policy 3 of the SELLP.

Flooding considerations

Policy 4 of the SELLP relates to the approach to flood risk and details how development proposals will be determined, including sequential testing and other relevant considerations. A Flood Risk Assessment was not included within the application.

The site is within Flood Zone 3 which has the highest probability of Flooding. The Lead Local Flood Authority does not raise any objections.

Paragraph 168 of the NPPF states that some minor development changes of use should not be subject to the sequential or exception test but should meet the requirements of site-specific flood risk assessment set out in footnote 55. Footnote 56 includes changes of uses for this note.

Annex 3 of the NPPF classifies the vulnerability of use classes and classifies Minerals processing as less vulnerable.

The Strategic Flood Risk Assessment (SFRA) Residual Flood Hazard Update in 2016 for the 1% Fluvial/0.5% Tidal for the present day classifies the site as 0.75 (low hazard) and for 2115 as a mixture of 0.75 (low hazard) and 1.25 (danger for some).

It is not considered that the proposal significantly conflicts with Policy 4 of the SELLP to withhold permission.

Foul and surface water drainage

Soakaways will be used for surface water. The IDB has included detailed comments in relation to Byelaw 3 in terms of both foul and surface water drainage. It is considered appropriate to suggest conditions requiring details of foul and surface water drainage and to include their letter to the applicant to ensure they are made aware of their byelaws and the presence of the B18 Half Mile Dyke (Drain ID:DRN193P1806) on the site.

Noise Impacts

Policy 30 of the SELLP relates to pollution including mitigating the impact of noise.

Given the mixed nature of the area, it is considered that any noise from the site would not affect any residential properties. Therefore the scheme is not contrary to policy 30 of the SELLP.

Impact on Biodiversity

Section 15 of the National Planning Policy Framework (NPPF) seeks to protect sites of biodiversity value, minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace.

Given the nature of the use and general area there are very limited opportunities for improving biodiversity on the site. It is not considered, therefore, that the proposal conflicts with policy 28 of the SELLP.

Highway Safety and Parking

Policy 36 of the SELLP states that all new development should provide vehicle and cycle parking in accordance with the minimum Parking Standards adopted by the Local Planning Authority. There is no particular standard for this type of use. Given that the Local Highway Authority has not raised an objection it is not considered that the proposal conflicts with policy 36 of the SELLP.

Planning Balance

Section 38 (c) 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. To determine whether the proposal accords with the Local Plan it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

In economic terms, the proposal employs 8 people and generates economic activity for the local economy. The economic benefits resulting from the proposal weigh in favour of the proposal.

In community terms, the proposal would make a contribution towards providing products that are in demand both in terms of supplying materials to the public, and in commercial uses and the housing sector. This weighs in favour of the proposal.

In environmental terms, the site has limited scope to improve the environment due to the nature of the use which would weigh against the proposal.

Overall, the benefits of the proposal outweigh any harm in the overall the planning balance and as

such there is no material harm and no compelling reason to withhold planning permission.

Conclusion

That the application is considered acceptable and should be approved.

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.