

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 09 October 2019

(Author: Joan Isus - Planning Officer)

Purpose: To consider Planning Application H18-0735-19

Application Number: H18-0735-19

Date Received: 30 July 2019

Application Type: FULL

Description: Change of use from a B1 to a Sui Generis (Pet Fertility Clinic) (retrospective)

Location: Unit 6 Railway Lane Industrial Estate Railway Lane North

Applicant: Mr R Lynn

Agent: Mr R Lynn

Ward: Sutton Bridge

Ward Councillors: Cllr C J T H Brewis
Cllr M D Booth

You can view this application on the Council's web site at

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H18-0735-19>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 The Railway Lane Industrial Estate is owned by South Holland District Council.

2.0 PROPOSAL

2.1 This is a retrospective planning application for a Change of use from B1 (light industrial) use to Sui Generis (Pet Fertility Clinic) of Unit 6, Railway Lane Industrial Estate, Sutton Bridge.

2.2 The unit had been previously used for the storage of sporting goods. The current use is a Pet Fertility Clinic. The business offers a range of services such as progesterone testing, artificial insemination, pregnancy scans, microchips, DNA testing for health and colours and sperm evaluations.

3.0 SITE DESCRIPTION

3.1 The site is an industrial unit located within the Railway Lane Industrial Estate at Sutton Bridge. Sutton Bridge Medical Centre is to the north but the wider surroundings are predominantly residential. The land and premises that extends to the south-east benefits from planning permission for B8 use (storage and distribution). Car parking is available within the industrial estate.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

Policy 1 - Spatial Strategy
Policy 2 - Development Management
Policy 3 - Design of New Development
Policy 7 - Improving South East Lincolnshire's Employment Land Portfolio
Policy 36 - Vehicle and Cycle Parking
Appendix 6 - Parking Standards.

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) to the Town and Country Planning Act as amended by the 2004 Act states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

National Guidance

National Planning Policy Framework (NPPF), 2019

Section 6 - Building a strong, competitive economy
Section 12 - Achieving well-designed places.

Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

- 5.1 H18-0869-83 - Layout of mini-factory site with provision of access - Deemed planning permission approved 08.02.84, included condition limiting use to light industry.

6.0 REPRESENTATIONS

6.1 SHDC Economic Development

No objection.

6.2 SHDC Environmental Protection

No objection.

6.3 Lincolnshire County Council as Local Highway and Lead Local Flood Authority

Does not wish to restrict the grant of permission.

- 6.4 No other representations had been received at the time of writing the report.

7.0 CONSIDERATIONS

7.1 Planning Considerations

7.2 Principle of Development

- 7.3 The site is located within the settlement boundary of Sutton Bridge as set out in the South East Lincolnshire Local Plan, 2019 (SELLP). Sutton Bridge is classified as a Main Service Centre in Policy 1 (Spatial Strategy) of the Local Plan. This policy states that "within the boundaries" of such settlements, "development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities".

- 7.4 Policy 7 (Improving South East Lincolnshire's Employment Land Portfolio) sets out the aim of supporting proposals which assist in the delivery of economic prosperity across the district. The Railway Lane Industrial Estate is identified as a Local Employment Area (ref: SB005) in Policy 7 of the Local Plan. This policy establishes that Local Employment Areas are reserved for Class

B1, B2 and B8 development and any non-B uses will only be supported where the applicant can show that it is ancillary to the effective functioning of the Local Employment Area. A Pet Fertility Clinic is considered to be "Sui Generis", and therefore does not fall within any particular Use Class. It is not considered that the business is ancillary to the effective functioning of this particular Local Employment Area as it does not support the functioning of other businesses on the industrial estate.

- 7.5 It therefore needs to be determined whether, in this instance, such a Use could be treated as an exception to adopted policy. Given the unique nature of the Use, a pragmatic approach needs to be taken to determining whether this is a suitable location for such a business, particularly as there is no guidance within the Local Plan. A town centre location may be appropriate, however, it is not a type of Use that would generate a high level of footfall on a regular basis. Therefore, locating the business in such a location would arguably be contrary to the aim of promoting the vitality of town centres as set out in Section 7 (Ensuring the Vitality of Town Centres) of the National Planning Policy Framework (2019). Although it is not a significant noise generating use, it would be preferable to site it outside of a residential area to avoid the potential for any conflict. For sustainability reasons it would not be appropriate to locate the business within the countryside. Given the above, locating the use within an industrial estate would remain the only realistic option. SHDC Economic Development have no objection to the Pet Fertility Clinic being based within the industrial estate and despite the industrial estate being in close proximity to some residential properties, SHDC Environmental Protection have no objection.
- 7.6 Given the above, it is considered that the proposal is, in principle, acceptable.
- 7.7 Impact Upon Character and Appearance of the Area
- 7.8 No external alterations have been made or are proposed. In view of this, there is no adverse impact upon the character and appearance of the area.
- 7.9 Impact Upon Residential Amenity
- 7.10 The number of vehicles associated with the intended use is low. It might be expected that animals visiting the clinic would generate some noise disturbance, however, it is an existing use and there have been no objections from any residents or SHDC Environmental Protection.
- 7.11 Car Parking Provision
- 7.12 Appendix 6 of the Local Plan sets out parking standards for new developments, however, the use in question is not covered by this.
- 7.13 Conclusion
- 7.14 The application site is part of a Local Employment Area as identified in Policy 7 of the SELLP. The change of use is contrary to Policy 7 which sets out that Local Employment Areas are reserved for Class B1, B2 and B8 development and any non-B uses will only be supported where the applicant can show that it is ancillary to the effective functioning of the Local Employment Area. It is not considered that the business is ancillary to the effective functioning of this particular Local Employment Area as it does not support the functioning of other businesses on the industrial estate. However, on balance, it is considered that siting the business on Railway Lane Industrial Estate is acceptable in this instance for the reasons set out above and would be in accordance with Policies 2 and 3 of the SELLP as well as Section 12 of the National Planning Policy Framework (2019).
- 7.15 **Additional Considerations**
- 7.16 Public Sector Equality Duty
- 7.17 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:

- 7.18 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.
- 7.19 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.20 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.
- 7.21 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.22 Human Rights
- 7.23 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).
- 7.24 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.

8.0 RECOMMENDATIONS

- 8.1 **Grant planning permission subject to the conditions listed in Section 9.0 of this report.**

9.0 CONDITIONS

1. The development hereby permitted shall be carried out in accordance with the following approved plans:
Site Location Plan; and
Block Plan.

Reason: For the avoidance of doubt and in the interests of proper planning.

2. The site shall only be used as a pet fertility clinic.

Reason: In the interests of the residential amenity of nearby properties.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

3. The clinic shall not be open to customers outside of the following times:
Monday to Saturday - 9:00am to 5:30pm; and
Sundays and Bank Holidays - 9:00am to 4:00pm.

Reason: In the interests of the amenity of local residents.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East
Lincolnshire Local Plan, 2019.

4. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

Background papers:- Planning Application Working File

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Appendices attached to this report: Appendix A - Plan A

