DECISION DELEGATED TO DEVELOPMENT MANAGER

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| **Application No:** | **H23-0080-19** | **Applicant:** | **Mr D Rous** |
| **Proposal:** | Change of use of part of site to builders yard (sui generis) | | |
| **Location:** | Off Millgate Whaplode Spalding | | |
| **Terminal Date:** | 26th July 2019 | | |

**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 |
| 28 | The Natural Environment |
| 30 | Pollution |
| 31 | Climate Change and Renewable and Low Carbon Energy |
| 32 | Community, Health and Well-being |
| 33 | Delivering a More Sustainable Transport Network |
| 36 | Vehicle and Cycle Parking |
| APPENDIX 6 | Parking Standards |

**National Guidance**

**National Planning Policy Framework 2019**

National Planning Policy Framework (NPPF), 2019

Paragraph 11 - The presumption in favour of sustainable development
Section 2 Achieving sustainable development
Section 4 Decision-making
Section 6 Building a strong, competitive economy
Section 8 Promoting healthy and safe communities
Section 9 Promoting sustainable transport
Section 11 Making effective use of land
Section 12 Achieving well-designed places
Section 14 Meeting the challenge of climate change, flooding and coastal change
Section 15 Conserving and enhancing the natural environment

Planning Practice Guidance (PPG)

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.

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| PARISH COUNCIL | 1 | 0 | 0 | 0 |
| WARD MEMBER | 0 | 0 | 0 | 1 |
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SHDC INTERNAL | 0 | 0 | 0 | 2 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |
| RESIDENTS | 3 | 0 | 0 | 2 |

## CASE OFFICER ASSESSMENT

### Proposal

Change of use of part of site to builders yard (sui generis use). Since original submission a more detailed plan has been provided showing the extent of the land and the uses to which it would be put, and the following information provided:

Skips to be sited as shown on plan and collection by a private refuse company
Electrical and plumbing storage within an existing building
10 full time employees
Hours of operation 0700 to 1700 Monday to Friday (occasional Saturday mornings)
Employees to arrive in private vehicles and to work in transit type company vehicles
Office accommodation to be within a portakabin.

In addition the applicant has undertaken to install a height barrier to restrict access to the site from the existing vehicular access from Little Lane.

### Site Description

The application site consists of part of a former nursery site, which contains a number of buildings and open land. Some of the buildings on the wider site are put to small industrial uses.

The site as a whole is accessed from Millgate and is located within open countryside.

### History

H23-0609-16. Adjacent to Irby House, Millgate. Use of site for the storage and distribution of furniture for online sales. Approved 11-08-16.

H23-0371-13. Adjacent to Irby House, Millgate. Change of use of former offices to training centre (Class D1). Approved 10-07-13.

H23-0382-10. Business Unit adjacent Irby House, Millgate. Change of use of redundant building to temporary living accommodation (retrospective). Refused and dismissed at appeal. 2012.

H23-0757-01 Irby House, Millgate. Erection of block of domestic garages. Approved 14-08-01.

Recent Appeal Decision on land close by:

H23-0718-18 Copelade Lodge, Little Lane. Change of use of land from paddock to builders yard (retrospective). Erection of fencing and the installation of a septic tank. Dismissed at appeal June 2019.

## Consultation Responses

Whaplode Parish Council. Objections. This is a rural location so site not in ideal location and is adjacent to a bed & breakfast business so potential noise and dust issues.

SHDC Cllr A Beal

1 Whilst this may have been an agricultural site, it is clear that this has not been the case for many a year and is in reality an industrial site mainly dealing with motor vehicles and shot blasting. Accordingly believe that granting permission with appropriate controls will be beneficial.
2 I see that there are no Highway objections, but would want all traffic being via Mill Gate and no access/egress off Little Lane.
3 Understand that this proposal would regulate the 'builders yard', also allowing SHDC to monitor and control.
4 Much of the site is an eyesore, so this proposal would help clean up the overall site, especially if moving the activities away from the B&B in Little Lane.
5 Overall this is an agricultural area which inevitably leads to mud on the roads and if this were to be transformed back to pure agriculture, then there would be even more mud

Former SHDC Cllr MG Chandler. Part of this whole site identified in blue is already being used as a builders yard which is intrusive to the adjoining property.

This current use should not continue should the proposal be granted.

Suggests conditions to cover
- activities associated with that of a builders yard be strictly contained and
- some form of solid boundary be erected to ensure that this cannot be breached
- access to the delimited area is restricted to the proposed vehicular route outlined on the plan via MillGate and no access for any other associated purpose including pedestrian access be allowed from any other route.

SHDC Environmental Protection Officer. No objection subject to contamination condition.

SHDC Environmental Health Officer. No objection

LCC SuDS and Highways - no objection.

Third Parties

3 objections form 3 properties as follows:

This agricultural site is slowly being turned into an industrial estate by stealth.
Although the revised plans show all activity within the proposed designated area, this is not in reality. Fail to see how this application could be monitored and complied with.
Impact on highway of Millgate and Little Lane.
Part of the wider site is currently being used as a builders yard without permission.
Impact of a fleet of commercial vehicles and storage on adjoining residents.
Road surfaces are beginning to develop potholes and there is mud on the roads.
There are 3 access points to the site.
Little Lane is not suitable for commercial uses.
Noise has increased as a result of builder's staff switching to fleet vehicles, with headlights flashing, use of extra land as a turning point, driving over a private soakaway and septic tank.
Would turn this site in to an eyesore.
Discouraging local tourism due to mud on the road, traffic and the general view.
Not in a sustainable location.
Outside storage, dust and debris.

There are other sites better suited to this use.
Would not object to the approval of temporary use of the site for the purposes mentioned until the tenant can find a more suitable industrial area, since despite the applicants claim that the change of use has not yet occurred this use has been observed on the site since November 2018.
In addition, please note section 10 of the application form has been completed in error. Approximately 11 light goods vehicles and 11 cars currently use the area, so the difference in total vehicle spaces should be 22.

## Planning Considerations

Principle of use of the site and the change of use
Location within open countryside
Impact on highways
Impact on residents
Visual impact of the site
Possible measures of control in the form of conditions

### Principle of use of the site and the change of use

Paragraph 47 of the National Planning Policy Framework (2019) requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise.

The recent NPPF makes provision for employment uses, and seek to encourage a prosperous rural economy. The South East Lincs Local Plan has site specific policies for Improving South East Lincolnshire's Employment Land Portfolio (Policy 7) and sustainable locations for development (Policy 2).

In addition Policy 3 Design of New Development deals, inter alia, with the need for development to sit comfortably with, and add positively to, its historically-designated or undesignated townscape or landscape surroundings, the landscape character of the location, accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways and residential amenity. These matters cut across other policies in the SELLP and the NPPF.

The National Planning Policy Framework stresses that planning policies should support the growth and expansion of all types of business and enterprise in rural areas and support sustainable rural tourism and leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. The NPPF explain that the three mutually dependant dimensions to sustainable development are social, economic and environmental. Below each of these elements is considered.

Economic - The proposal would constitute a relocated enterprise and would bring some economic benefits to the local area. However if the business that eventually occupies the site is not that currently intended by the applicant, it is likely that a local, small business enterprise would locate or relocate to the site.

Social and Environmental factors - This site is it is not well related to existing local facilities/services in the area, however a recent appeal decision close by (at Copelade Lodge) stated that there is nothing to suggest that a rural location for such a use (a builder's yard) is inappropriate. That said, the appeal site is clearly not in the most sustainable location, however, he considered that this is not a determinative factor when looking at sites in the open countryside for such uses.

The site is some distance from a public transport route. Employees and visitors would be likely to have a high dependence on the use of motor vehicles to access the site as well as local services and other facilities, however this is to be balanced against the provision of employment within the District.

The site is accessed from Millgate, but has secondary access from Little Lane, which is a narrow, poorly made lane that predominantly serves residential dwellings and a handful of small scale, established agricultural and small scale businesses. The applicant has agreed to the installation of a height barrier to restrict access to the site from Little Lane.

Policy 7: Improving South East Lincolnshire's Employment Land Portfolio, sets out the aim to support new employment development/businesses or the extension of an existing business outside the allocated employment sites within the plan, provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings.

Location within open countryside

The site forms part of a wider former nursery concern with various packing houses and other buildings. The glasshouses on the site have been removed, although the bases are still in situ. Despite this, due to the historic use of the land, the application site is considered to be within open countryside.

The wider environs of this site has the character of open countryside containing the usual mix of sporadic dwellings, agriculture and other associated agricultural businesses, typical of the rural areas of the District.

It is considered on balance that the use of part of this site as a builders yard, provided it is sufficiently controlled, could be acceptable, and would encourage the retention of a local business within the District, although there is no guarantee that the intended occupier will take up the premises.

Impact on highways

The application shows vehicular access to this site to be solely from Millgate, and the applicant has undertaken to install a height barrier on to the access from Little Lane to preclude access of commercial sized vehicles. This is to be controlled by condition.

LCC Highways have raised no objection to the proposal on the basis of highway safety.

It is considered that provided access for this development is from Millgate only, then the application is acceptable.

Impact on residents

The red line of this site is set away from dwellings within Little Lane, and has a boundary with the dwellings of Irby House, Irby Hall Cottage and Dove Cottage.

There is a balance to be considered when looking at the potential impact on neighbouring residents, and bearing in mind the fall back position of the authorised use of the land as an unrestricted nursery concern and site, that would have had various vehicles and uses adjacent to existing dwellings.

It is considered on balance that provided days and hours of operation are controlled by condition, the uses proposed would not have such an impact on neighbouring residents that permission could be refused for that reason.

Visual impact of the site

The site is not generally viewed from the wider countryside, and is viewed in the context of the built form already on the site.

It is not considered that the uses proposed would have a significant visual impact.

Possible measures of control in the form of conditions

It is considered that the days and hours of use, the nature of vehicles on the site, the use of power tools, storage of materials, site management, control of the burning of materials, access from Little Lane and illumination of the site can be controlled by condition, and would lead to an acceptable form of development. The suggested conditions are set out in the draft decision notice.

**Conclusion**

The original use of the site and its location within open countryside is to be balanced against the proposals and local and national planning policies.

On balance it is considered that provided conditions are imposed and adhered to, then this proposal can be considered to be acceptable.

**Additional Considerations**

Impact on value of properties - no weight can be given to this as it is not a planning matter.

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 to grant permission 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 to grant permission 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 to grant permission is considered to be a proportionate response to the submitted application based on the considerations set out in this report.