

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H23-0158-24	Applicant:	J & N Properties
Proposal:	Erection of a Storage Building (Use Class B8) (to Replace Re-Cladding of Existing Glasshouse Approved Under Planning Permission H23-1043-22) - approved under H23-0921-23. Removal of Conditions 5, 8, 12, 13, 14 and 16 relating to landscaping, CCTV cameras, use, noise assessment, storage and soakaway system.		
Location:	Newgate Hockney Hole Lane Whaplode		
Terminal Date:	22nd May 2024		

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
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

- 6 - Building a strong, competitive economy
- 9 - Promoting sustainable transport
- 11 - Making effective use of land
- 12 - Achieving well-designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND	0	0	0	1

INTERNAL DRAINAGE BOARD				
SHDC INTERNAL	0	0	2	0
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73 application at Newgate, Hockney Hole Lane, Whaplode for the erection of a Storage Building (Use Class B8) (to Replace Re-Cladding of Existing Glasshouse Approved Under Planning Permission H23-1043-22) - approved under H23-0921-23. Removal of Conditions 5, 8, 12, 13, 14 and 16 relating to landscaping, CCTV cameras, use, noise assessment, storage and a soakaway system.

This application does not seek to alter any other elements of the application. The proposed building is located approximately 60 metres from the site boundary of a recently approved application site at Double Roof Farm under reference H13-0752-23. For reasons of consistency and clarity it is considered important that there is parity between the conditions for both sites where possible to ensure that the character and amenity of the area is not materially impacted.

A site visit was conducted on 28th February 2024.

SITE DESCRIPTION

The application site is located to the north-east of Hockney Hole Lane which joins the High Road (A151) approximately 150 metres to the south. The site currently consists of a metal and cement board clad industrial building used to store equipment and maintain vehicles and a new brick 'L' shaped office building together with entrance gates, boundary fencing and concrete parking with turning areas. There is a dwelling named Hockley House to the south of the site, which is in the ownership of the applicant. Beyond this dwelling is the existing storage building.

To the east and north-east is grassed paddock land which is associated with the former horticultural use of the site. To the north of the site is a dwelling named The Bungalow approximately 20 metres from the proposed storage building, and further north there is a dwelling named Mint House. This dwelling is approximately 117 metres from the proposed building.

To the north-west of the site, approximately 60 metres from the proposed storage building, an application under reference H13-0752-23 was considered. This application is for Change of use of agricultural buildings to use class B8, E (g) (iii) with alterations to some buildings. This application was determined as of 18 December 2023.

The current boundary treatment is a 2 metre high fence, wall and gates along the south-west frontage adjacent Hockney Hole Lane. New tree planting is sited close to the north-west boundary. A 1 metre high close boarded fence is sited at the boundary adjacent to The Bungalow, with a 1 metre high post and rail fence running down the remainder of the north-west boundary. New planting is sited along the north-east boundary of the site with 1 metre high post and rail fencing, then arable fields beyond. The existing 1 metre high post and rail fencing along the south-eastern boundary is to be retained.

The site is outside of the defined settlement limits of Whaplode and is therefore designated as being in the open countryside in planning terms.

The footprint of the building is predominately in Flood Zone 2 with the remainder of the building in Flood Zone 3. The site is not subject to increased hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping.

Referring to the Flood Risk Vulnerability Classification in Table 2 of the NPPG, the proposed industrial development is classified as "Less Vulnerable", with Table 1 of the NPPG stating that such uses are appropriate in this zone. The ground floor for the storage building is to be raised 150mm above the existing ground level set at a minimum of 3.30mODN. Surface water will be disposed of via a soakaway. Further soakaway details will be secured by condition. Foul water drainage details are not required for this building which is for storage purposes only.

RELEVANT HISTORY

H23-0919-80

Full - Erection of general purpose building at Hockney Hole Lane - Approved - 19 August 1980

H23-1049-08

Full - Change of use from agricultural to storage of machinery and equipment with ancillary maintenance of vehicles and equipment, including alterations - Approved - 15 December 2008.

H23-0804-13

Full - Proposed portable office building - Approved - 12 November 2013.

H23-1026-13

Full - Proposed office building (re-submission of H23-0804-13) - Approved - 27 January 2014.

H23-1043-22

Full - Erection of storage building and change of use and recladding of existing glasshouse to storage (Use Class B8) in connection with existing industrial flooring business - Approved - 16 December 2022.

H23-0667-23

Condition Compliance - Details of proposed external lighting (Condition 3 of H23-1043-22) - Approved - 14 September 2023.

H23-0921-23

Full - Erection of a Storage Building (Use Class B8) (to Replace Re-Cladding of Existing Glasshouse Approved Under Planning Permission H23-1043-22) - Approved - 19 December 2023.

H13-0752-23 - To north-west of site at Double Roof Farm

Full - Change of use of agricultural buildings to use class B8, E (g) (iii) with alterations to some buildings - Approved - 18 December 2023.

CONSULTATION RESPONSES

The responses received from consultees during the initial consultation exercises can be summarised as follows:

Initial Responses Received (Consultation period between 26 February 2024 and 18 March 2024)

South Holland District Council - Environmental Protection - Oliver Abrams - 11 March 2024

"No comment regarding land contamination"

South Holland Internal Drainage Board - 13 March 2024

" We recommend that you satisfy yourselves that the existing soakaways are in good condition, appropriately sized for the development and therefore are able to adequately drain the proposed building, as per current building regulations."

"The nearest Board maintained watercourse, P07 Crown Branch (Drain ID: DRN206G0701), lies to the north of the applicant's wider ownership boundary. Therefore, Byelaw 10 does not apply."

Lincolnshire County Council - Highways & SUDS - 13 March 2024

No objections.

"The conditions referred to in this application are not conditions requested by Lincolnshire County Council. We therefore have no comments to make."

South Holland District Council - Environmental Protection - Diane Gordon - 21 March 2024

No observations.

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, letters of representation have been received.

These can be summarised as:

- Removing conditions will impact nearby residents.
- Concern that working hours are not adhered to.
- Already a large amount of noise generated by the site.
- Quiet lane is now becoming industrial.
- Concerns that existing boundary treatment may be altered.
- Further loss of privacy from additional CCTV.
- Usage should remain restricted.
- Concerns about what is being stored and where.

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Principle of Development and Sustainability

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

Impact on Residential Amenity/Land Users

Parking/Highway Safety

Flooding Considerations/Drainage

Biodiversity and landscaping

Proposed removal of Condition 5 of H23-0921-23 - Landscaping Detail

Proposed removal of Condition 8 of H23-0921-23 - External CCTV cameras

Proposed removal of Condition 12 of H23-0921-23 - Linking business to Hockley House

Proposed removal of Condition 13 of H23-0921-23 - Noise Assessment

Proposed removal of Condition 14 of H23-0921-23 - Outside storage

Proposed removal of Condition 16 of H23-0921-23 - Details of soakaway system

EVALUATION

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the 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 above.

The policies and provisions set out in the National Planning Policy Framework (updated December 2023) are also a material consideration in the determination of planning applications, alongside

adopted Supplementary Planning Documents.

Evaluation - Section 73

The proposal relates to the variation of conditions, through seeking permission under Section 73 of the Act. The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered. The effect of granting permission would be to issue a new permission with the specific conditions being removed, together with any other relevant conditions from the original permission, or subsequent relevant revisions since this permission being attached.

The PPG clarifies that "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted". There is no statutory definition of a 'minor material amendment'; but this is likely to include any amendments where its scale and or nature results "in a development which is not substantially different from the one which has been approved".

In this instance, the subsequent amendments, submitted under this Section 73 application, have not varied the description of development.

In the case of R (Vue Entertainment Limited) v City of York Council, it was concluded that the decision gives clear support for use of s.73 in respect of changes to condition which go beyond 'minor' amendments. It places a clear emphasis on preserving the precise terms of the grant. If an amendment to a condition can be made which keeps the description of the development intact it may well be appropriate to make such an application under a s.73, even if the affect of the change will be significant".

Principle of Development and Sustainability

The principle of development of this site has previously been established under reference H23-0921-23.

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

No changes are proposed to the layout that was approved under H23-0921-23.

Section 12 of the National Planning Policy Framework (December 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, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Development proposals should also ensure that developments 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, among other considerations.

Proposals for new development would therefore require the aforementioned considerations to be

adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

Likewise, Policy 2 of the South East Lincolnshire Local Plan 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. 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.

These policies accord with the provisions of the National Planning Policy Framework and require 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.

The proposed building is sited 5.6 metres closer to the frontage of the site, but is 41 metres from Hockney Hole Lane. Therefore the building is not considered to be visually prominent from the highway. This is especially the case when the proposal building has a 4.4 metre ridge height when compared to the previous glasshouse height of 5.3 metres. The storage building will be clad in goosewing grey plastic-coated metal sheeting with anthracite grey doors. No new hardstanding is required to facilitate the proposed building. It is considered that the proposed materials are appropriate for the site and are in keeping with the existing buildings.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable when considered in respect of relevant conditions. 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 (December 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.

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The proposal is not considered to represent an overdevelopment impact. The floor area of the storage building is the same as that of the greenhouse that is being demolished, and the ridge height of 4.4 metres is lower than the 5.3 metre ridge height of the greenhouse.

There is not considered to be an overshadowing impact from the proposal. The areas to the north-east, south-east and south-west of the building are in the ownership of the applicant and are significant distances from the site boundaries. The existing glasshouse is 22.6 metres away from a property named The Bungalow to the north-west of the site. The proposed storage building will be sited 20 metres away from The Bungalow at the nearest point. When right to light lines are drawn from the 4.4 metre ridge height there is not an overshadowing impact from this building. Once the tree planting along the north-west boundary is established, it is anticipated that the majority of the storage building will be shielded from the neighbouring property.

There is not considered to be an overlooking impact from the proposal. The existing greenhouse if in use would allow for workers to see The Bungalow to the north-west of the site due to the existing 1 metre high fencing boundary treatment. There are no windows in the north-west elevation of the storage building facing The Bungalow. There is a personnel door to the eastern most extent of the north-west elevation. This is sited 38 metres away from The Bungalow at the nearest point. Given that there is a personnel door on the south-east facing frontage of the storage building, it is not anticipated that this door will be subject to heavy usage. Once the tree planting along the north-west boundary is established, it is anticipated that the majority of the storage building will be shielded from the neighbouring property.

Policy 30 of the SELLP relates to pollution including mitigating the impact of noise. Noise has been raised as a concern by one local resident and these concerns have been taken into account. The Environmental Protection department has no objections to the submitted details.

The current approved hours of opening are 07:00 to 20:00 Monday to Friday and 07:00 to 13:00 on Saturday. The site does not operate at any time on Sundays or Bank Holidays. The area in which the building is to be located has permission to operate under the approved industrial flooring business use. The building is proposed for storage use only. A noise assessment report condition was imposed under Condition 13 of H23-0921-23 so that the conditions were in parity with those of the nearby Double Roof Farm, approved under H13-0752-23.

As detailed above, the scale and design of 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 considered in respect of relevant conditions. 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.

Parking/Highway Safety

None of the conditions that the applicant seeks to remove are considered to impact parking or highway safety.

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 111 of the National Planning Policy Framework (December 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.

The proposal does not seek to increase the floor area of the existing greenhouse to be demolished to a significant degree, therefore there is not a loss of hardstanding provision as a result of the proposal. A large amount of space remains for manoeuvring and the parking of vehicles. The application form states that the number of proposed parking spaces on site will remain at 20.

Paragraph 85 of the NPPF states "planning decisions should recognise that sites to meet local business needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, and does not have an impact on local roads."

The County Highways & SUDS Officer has no objections to the submitted details and states:

"An increase in the storage floorspace for the existing business occupying this site was established by the grant of consent, under reference H23-1043-22, to convert an existing glasshouse on the site (a remnant of the site's former horticultural use) to a storage building. This current application seeks to 'swap' that glasshouse conversion for a new-build structure. In highway terms, the proposed development differs little from the consented development.

As previously, the development requires no alteration to the site's existing high quality entrance.

The site is well located to take advantage of the nearby A151 and the country's wider principal highway network.

In consideration 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 would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network and therefore does not wish

to object to this planning application."

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.

Flooding Considerations/Drainage

The applicant seeks to remove Condition 16 of H23-0921-23 related to details of a soakaway system. The requested removal is addressed in a separate section below.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

The footprint of the building is predominately in Flood Zone 2 with the remainder of the building in Flood Zone 3. The site is not subject to increased hazard or flood depth on the 2115 South Holland Strategic Flood Risk Mapping.

Referring to the Flood Risk Vulnerability Classification in Table 2 of the NPPG, the proposed industrial development is classified as "Less Vulnerable", with Table 1 of the NPPG stating that such uses are appropriate in this zone. The ground floor for the storage building is to be raised 150mm above the existing ground level set at a minimum of 3.30mODN. Surface water will be disposed of via a soakaway. Further soakaway details were secured by condition. Foul water drainage details are not required for this building which is for storage purposes only.

Biodiversity and landscaping

In respect of the climate emergency, Section 14 of the National Planning Policy Framework (December 2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

Policy 28 outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly greenspace will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposals shall provide an overall net gain in biodiversity.

The site operates as an existing industrial flooring business and therefore there are limited opportunities to improve biodiversity, but it is not impossible given that there are large areas of undeveloped space and numerous buildings that could accommodate bat and bird boxes and landscaping. It is suggested that ecology enhancement could be achieved using a standard condition. Subject to the imposition of a condition requiring ecology measures, it is considered that the proposal would not impact on ecology, especially if careful consideration is given to potential future lighting which can adversely affect light sensitive species including some bat species. The proposal does not conflict with Policy 28 of the SELLP as a result.

Outstanding matters from representation

None

Proposed removal of Condition 5 of H23-0921-23 - Landscaping Detail

Condition 5 of H23-0921-23 states:

"The scheme of landscaping and tree planting shown on dwg. no. 1521-3_PL_SP01 shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land

on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019."

The submitted covering letter states:

"Drawing number 1521-3_PL_SP01 does not show any landscaping or tree planting and, therefore, cannot be complied with and, accordingly, should be removed. Planning permission H23-1043-22 was granted without the need for landscaping as the site is already screened from Hockney Hole Lane by a tall evergreen hedge."

No tree planting is shown on this plan 1521-3_PL_SP01, and whilst there is new tree planting around the site boundary, this was installed by the applicant without a previous planning condition imposed for them to do so. However, due to the type of the application it is not possible to approve the removal of this condition alone.

Proposed removal of Condition 8 of H23-0921-23 - External CCTV cameras

Condition 8 of H23-0921-23 states:

"Details of any external CCTV cameras proposed shall be submitted to and approved in writing by the Local Planning Authority prior to the first use of the building. There shall be no further CCTV cameras installed on or in the vicinity of the building other than that so approved.

Reason: To ensure that the Local Planning Authority retains control over these matters, in the interests of the visual amenity of the overall development, and to prevent visual intrusion to any land or buildings outside the ownership of the applicant.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019."

The submitted covering letter states:

"The use of CCTV cameras where the purpose is for crime prevention is controlled through the Information Commissioners Office and any such camera where not exempt has to be registered. The placing of one or multiple CCTV cameras on such a large building will have no impact whatsoever on the "...visual amenity of the overall development..." and it is not the role of the planning system to "...prevent visual intrusion to any land or buildings outside the control of the applicant." The latter part of this condition is both imprecise and unenforceable as how is it proposed to assess what is "visual intrusion". We would also make the point that Class F, Part 2, Schedule 2 of the Town and Country (General Permitted Development) (England) Order 2015 allows the installation of CCTV equipment subject to certain conditions. This condition is, therefore, unnecessary and unreasonable and should be removed."

Due to the proximity of the storage building to a residential property named The Bungalow it is considered appropriate to impose this condition. Given the current low level boundary treatment any CCTV installed on the western or northern elevations of the building would have unrestricted views of the garden space and rear fenestration of the property. This condition is considered vital as most CCTV cameras are no longer in a fixed position and now offer pan, tilt and zoom functions.

Proposed removal of Condition 12 of H23-0921-23 - Linking business to Hockley House

Condition 12 of H23-0921-23 states:

"The use hereby permitted shall be operated solely in conjunction with the occupation of the existing dwelling currently known as Hockley House.

Reason: The formation of a separate business in this location would be unacceptable having regard to the relationship with the existing dwelling.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019."

The submitted covering letter states:

"Planning permission H23-1043-22 was granted for the erection of a replacement building and the recladding of an existing greenhouse (which this permission replaces) for use by Acast Industrial Flooring with no requirement for the use to be "...operated solely in conjunction with the occupation of the dwelling known as Hockley House,," and that permission did not require that the use be limited to the occupation of the existing dwelling. We would also make the point that the new building is considerably closer to the dwelling known as 'The Bungalow' to the west than it is to Hockley House so the condition is unnecessary, serves no real planning purpose and should, therefore, be removed."

This condition was imposed under Condition 4 of H23-1049-08 for the original permission for the business. No previous applications in the last 15 years have sought to remove this condition. It is considered appropriate for this condition to be retained and the removal of such would not be considered suitable.

Proposed removal of Condition 13 of H23-0921-23 - Noise Assessment

Condition 13 of H23-0921-23 states:

"Prior to the first occupation of the storage building hereby approved, a noise assessment shall be carried in accordance with BS 4142:2014+A1(2019) and shall be submitted to and approved in writing by the Local Planning Authority. It shall assess the existing background noise levels and noise sensitive receptors of nearby residential properties. Regard shall be had to impulsive and short duration noise, including tools, air handling, extraction plant/equipment (mechanical and engineering). Noise from the site assessed in terms of LAeq experienced at the dwellings shall be limited to 5dB above the established background noise levels contained in the approved details.

In the event of a significant observed adverse effect of noise, a package of mitigation measures shall be submitted to and approved in writing within 3 months of the observed noise impact event, to mitigate the noise impact to existing noise sensitive receptors. The approved mitigation measures shall be implemented within 6 months following approval.

Reason: To ensure that there is no observed adverse additional noise impact to nearby residents as a result of that permitted over and above the existing lawful use.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019."

The submitted covering letter states:

"There was no such condition appended to the change of use of the existing building on site for the same use (H23-1043-22). In addition, the wording of the condition is not sufficiently precise in that it appears to relate to background noise levels only ie, "It shall assess the existing background noise levels and noise sensitive receptors of nearby residential properties". The condition is not related to the development having regard to the existing development on site which has no such requirement (H23-1043-22)."

This condition is considered vital to address any noise impacts from the intensification of the use of the site. Two permissions have been granted in the last three years for new buildings on site. Whilst local and national policy supports the growth of rural businesses, it does so on the proviso that there will not be a material amenity impact on neighbouring land uses.

Proposed removal of Condition 14 of H23-0921-23 - Outside storage

Condition 14 of H23-0921-23 states:

"No storage of materials, machinery, waste or other items shall take place outside of the storage building as identified on 1521-3_PL_SP01 on the site.

Reason: To ensure that the amenities of residential occupiers of other premises in the vicinity are protected, particularly in relation to noise.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019."

The submitted covering letter states:

"No other permissions on site carry a condition relating to outside storage including the permission for the change of use of the existing building which this proposed building replaces. The red line which defines the application site excludes an area closer to the nearest residential occupier ('The Bungalow'). The condition is, therefore, unreasonable and serves no real purpose in planning terms bearing in mind how the remainder of the site can operate without similar restriction."

Condition 6 of H23-1049-08 states:

"There shall be no external storage of equipment or materials, unless agreed otherwise in writing by the Local Planning Authority.

Reason: In the interest of the visual amenities of the locality.

This Condition is imposed in accordance with Policy SG14 of the South Holland Local Plan 2006."

There have been no previous applications to remove this condition and the site visits for H23-0921-23 and H23-0158-24 observed a sizeable amount of external storage in breach of this condition. This is considered to be important to ensure that the development remains acceptable in respect of both its overall extent of use, alongside its impact upon the character of the area and impact upon the surroundings.

Proposed removal of Condition 16 of H23-0921-23 - Details of soakaway system

Condition 16 of H23-0921-23 states:

"Before the development is commenced beyond oversight, full details of the proposed soakaway system for the disposal of surface water from the development hereby permitted, including percolation test results, shall be submitted to and approved in writing by the Local Planning Authority. This shall include the calculations undertaken to determine the volume of storage required. Should the percolation test results be considered unacceptable by the Local Planning Authority details of an alternative means of providing for surface water drainage shall be submitted for consideration. The approved means of surface water drainage shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2023."

The submitted covering letter states:

"This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2023. It is proposed to replace the existing building with a slightly smaller overall roof area and utilise the existing soakaway system that has served the existing building perfectly well during the lifespan of its use. No such condition was imposed on planning permission H23-1043-22. The condition is therefore not necessary and should be removed."

The footprint of the storage building has been moved from that of the greenhouse, and is closer to a neighbouring property named The Bungalow. Therefore it is considered that there is the potential for greater surface water impact to adjacent land. It is considered that matters in respect of drainage details are important and as such, it would not be acceptable for this to be removed.

PLANNING BALANCE

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

Save for the removal of Condition 5 of H23-0921-23 for landscaping conditions, the removal of other conditions related to CCTV cameras, linked use, noise assessment, storage and soakaway

provision is not considered acceptable. However, due to the type of application being a Section 73 it would not be reasonable in this instance to issue a part approval / part refusal, with all conditions being retained save for condition 5. These conditions were imposed to protect residential amenity and prevent surface water flooding. Additionally, these conditions were imposed to match those of the application H13-0752-23 at Double Roof Farm 60 metres from the site boundary. For reasons of consistency and clarity it is considered important that there is parity between the conditions for both sites where possible to ensure that the character and amenity of the area is not materially impacted.

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.

CONCLUSION

This application is considered not to be acceptable, as the removal of conditions would not allow for a suitable development in accordance with Policies 1, 2, 3, 4, 7, 30 and 36 of the South East Lincolnshire Local Plan, 2019, as well as Sections 6, 11 and 12 of the National Planning Policy Framework (December 2023).

RECOMMENDATION

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