

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Development Manager

To: Planning Committee - 04 September 2019

(Author: Lucy Buttery - Principal Planning Officer)

Purpose: To consider Planning Application H16-0930-18

Application Number: H16-0930-18

Date Received: 21 September 2018

Application Type: FULL

Description: Change of use to B8

Location: 344 Bourne Road Pode Hole Spalding

Applicant: M J L Skipmaster

Agent: Remway Design Ltd

Ward: Spalding Monks House

Ward Councillors: Cllr A C Cronin
Cllr A M Newton

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

<http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H16-0930-18>

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 Objections received and policy issues merit Committee consideration.

The application was deferred at the Planning Committee on 29 May 2019.

2.0 PROPOSAL

2.1 This application was previously reported to 29 May 2019 Planning Committee when it was deferred for the following reason:

To seek clarification on Environmental Protection's revised position on the application as well as newly recommended conditions.

2.2 The application in question is a full planning application for the change of use of land to the rear of 344 Bourne Road, Spalding to use class B8.

2.3 The proposal has been submitted by MJL Skipmaster Ltd, whose existing premises are located immediately to the east of the land in question. MJL Skipmaster are a company involved in the manufacture of containers and skips and also refurbish containers that have been taken out of service due to damage or fault. The proposal is for skips associated with MJL's existing operations to be stored on the land, specifically on the hatched area shown on the submitted plan. The applicant advises that approximately 200 skips would be stored on the land and that these would be stacked no more than two containers high. The proposed storage area would be constructed from crushed concrete with road planings.

2.4 For clarity, although the red line boundary on the site location plan includes the existing MJL premises, this application is predominantly concerned with the land situated to the rear of 344

Bourne Road. The reason behind the existing MJL site being included within the red line is because National Planning Practice Guidance states that any red line boundary should include all the land necessary to carry out the proposed development e.g. access to the site from a public highway and car parking. Given that the land to the rear of 344 Bourne Road is proposed to be accessed through the existing MJL site which takes its access off Bourne Road, it was considered appropriate to include this within the red line.

2.5 In terms of the applicant's reasons for submitting this application, gaining planning permission for B8 use on the land to the rear of 344 Bourne Road would mean that the bulk of the skips MJL are responsible for could be stored there instead of across the current site. This would create room within the existing site for the construction of a new shot blasting shed (approved in 2017) which would be used to service the large ('RoRo') containers they receive. It is the applicants intention that these 'RoRo' containers would be offloaded adjacent to the building, re-fabricated, shot blast and painted at the building and stored adjacent ready for re-loading to a lorry in the same area. This would reduce the movement of such skips around the site, thereby reducing noise and would be a safer method of working.

2.6 The applicant intends to install an earth bund (3.6m in height) at the southern end of the storage area to minimise visual and noise impact. Acoustic fencing would make up the remainder of the boundary treatment along the southern boundary of the land.

3.0 SITE DESCRIPTION

3.1 As stated above, the site boundary encompasses the existing MJL Skipmaster premises located to the north of Bourne Road and an area of land to the west (located to the rear of number 344 Bourne Road). The land to the rear of no. 344 is currently laid to grass. There is a Lincolnshire County Council Highways Depot to the west, with Vernatts Drain to the rear. There are frontage properties to the east, south and west along Bourne Road.

4.0 RELEVANT PLANNING POLICIES

4.1 The Development Plan

South East Lincolnshire Local Plan, March 2019

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.

- 1 - Spatial Strategy
- 2 - Development Management
- 3 - Design of New Development
- 7 - Improving South East Lincolnshire's Employment Land Portfolio
- 30 - Pollution

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 H16-0020-17 - Proposed detached shot blasting shed (approved 7th March 2017)

6.0 REPRESENTATIONS

6.1 Ward Councillor

6.2 Cllr A M Newton - Present activities are noisy and paint fumes can be smelt by residents. Residents are concerned that moving storage nearer to residential properties fronting Bourne Road will affect peaceful enjoyment of the properties. Application form states that there is not to be a new access but the applicant talks as though there could be. Residents believe information on application form is scant and not fully transparent. It is felt that the company have outgrown the site and should be encouraged/helped to move to a more appropriate location. Residents believe that they have a right of way on the roadway which the hatched area partly covers.

6.3 LCC Highways/SUDS

6.4 Does not wish to restrict the grant of permission.

6.5 SHDC Environmental Protection

6.6 No objection. I note that the application is now for B8 use only.

6.7 Public

6.8 There have been 4 resident objections highlighting the following key concerns:

- Already considerable noise which would increase with expansion;
- Increase in odour from paint; wind already carries the paint fumes to neighbouring properties;
- Bund would not prevent paint fumes from escaping;
- Questions how effective acoustic barrier and bund would be;
- Would affect the character of the area;
- Impact on condition of land by storing approximately 200 skips;
- Various questions asked re: use classifications and transparency of application;
- Proposal infringes on a legal right of way of another party;
- Site is in a rural community and an operation of this size and complexity should be located in a suitably designated area e.g. Wardentree Lane;
- Waste paper and plastics blow from site to garden;
- No provision for soundproofing on eastern boundary;
- Highway safety;
- Impact on drainage with vehicles crossing dyke between 344 Bourne Road and MJL;
- Impact on physical and mental health of nearby residents;
- Light levels if security lights are installed;
- Impact on views; and
- Impact on property prices.

7.0 **CONSIDERATIONS**

7.1 **Planning Considerations**

7.2 Policy

7.3 The site is located outside of the settlement boundary for Spalding as set out in the South East Lincolnshire Local Plan (2019) and is, therefore, classed as being in the countryside in planning policy terms. Policy 1 (Spatial Strategy) of the Local Plan states that development in the countryside will only be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. In terms of the former, the proposal is necessary in this location in so far as the existing business is located adjacent and it is logical for the business to utilise the land next door for reasons of efficiency and practicality. In terms of the latter, it would deliver economic benefits by improving the efficiency of an existing business and ultimately allowing for the creation of up to 15 additional jobs. The environmental and community ('amenity') aspects of the proposal will be considered later in this report however, in summary, it is not considered that there are any issues that would represent a conflict with Policy 1 of the Local Plan.

7.4 Policy 7 of the Local Plan (Improving South East Lincolnshire's Employment Land Portfolio) states that "the extension of an existing business outside of allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the

conversion/re-use of redundant buildings. Where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non allocated sites may be acceptable provided:

- a. the development does not conflict with neighbouring land uses;
- b. there is no significant adverse impact upon the character and appearance of the area;
- c. the design is responsive to the local context;
- d. there will be 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;
- f. proposals maximising opportunities for modal shift away from the private car are demonstrated; and
- g. there is an identified need for the business location outside of identified employment areas on the Policies Map."

- 7.5 Given that the former historical use of the land was horticultural, it is not considered to be previously-developed land. As such, the proposal should be assessed against parts a-f above. A number of the points (a-d) are covered in more detail in the remainder of the report in the sections on residential amenity, highways and impact upon character and appearance of the area. In terms of those that are not, the following arguments can be made. It is not considered that there would be a significant adverse impact upon the viability of delivering any allocated employment site. The site is not strategic in scale and would be associated with the existing business adjacent. Furthermore, the business has identified a need for further land to support its operations and acquiring the land adjacent is the most logical solution to this. Although the proposal would not directly maximise opportunities for modal shift away from the private car, utilising the land adjacent would mean that a storage location would not have to be sought elsewhere which would minimise traffic movements.
- 7.6 In terms of national planning policy relating to employment, Section 6 of the NPPF states that 'planning decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'. Permitting the proposed development would support the growth needs of an existing local business which is contributing to the local economy.
- 7.7 Residential amenity
- 7.8 Some of the issues raised by residents relate specifically to the operation of the existing premises. Namely, existing noise issues and paint fumes affecting neighbouring properties and no provision being made for soundproofing on the eastern boundary. These are issues for Environmental Protection. SHDC's Lead Environmental Protection Officer has confirmed that complaints regarding the operation of the existing premises have been received since the submission of this application from the occupants of two properties in close proximity to the site. These complaints have been investigated but no statutory noise nuisance has been found to have occurred.
- 7.9 In relation to the proposed change of use, objectors have raised concern that noise and paint odour would increase with the expansion and that the proposed bund would not prevent paint fumes from escaping. It should be noted that the applicants interest in gaining permission for the change of use of the land is in being able to move skips stored on their current site to the land adjacent in order to improve flow around the site. It is accepted that this would have the resultant effect of creating room for the shot blast shed to be constructed in the north east corner of the existing site, however planning permission has already been granted for this and it would only be able to operate under the terms of that permission which were considered to be acceptable at the time.
- 7.10 In terms of the relationship between the proposal and existing residential properties, the skip storage area would be approximately 30 metres from the rear elevation of the nearest residential property, 346 Bourne Road. Number 344 Bourne Road is currently unoccupied and would be sold to MJL Skipmaster as part of the sale of the land. It is their intention to rent this residential property out and so it is in their interests for their business operations to be as 'resident friendly' as possible. The applicant proposes to install an earth bund and acoustic fencing along the southern end of the skip storage area as a mitigation measure. It should also be noted that Lincolnshire County Council's Pode Hole Highways depot is immediately to the west of the site and is an existing noise generating use in close proximity to residential

properties. This depot lies to the rear of two residential properties which front on to Bourne Road and there is the access road to the depot in between the two dwellings. The proposal would be no nearer to the existing residential properties than the Highways depot, which does generate noise and there is the potential for this to occur at unsociable hours. The usual working hours of MJL Skipmaster are 7:00am - 5:00pm weekdays, but the applicant advises that there is limited activity between 3:30pm and 5:00pm as most production staff finish work at 3:30pm.

- 7.11 Concern has been raised that the existing access between 344 and 346 Bourne Road would be used by HGVs to access the site. However, the applicant has stated that this would not be the case and the gated access that was originally proposed between these two properties has been removed.
- 7.12 Additionally, the applicant has stated that skips would be moved by all-terrain forklift which, they state, vibrate less than standard warehouse forklifts due to their different tyres. This would help minimise the impact their movement could have.
- 7.13 One objector has commented that there may be extra light pollution if security lights were to be installed. In response to this, the applicant has confirmed that there are no plans to install security lighting and a condition will be added to prevent the installation of external lighting without the submission of details to, and permission of, the Council.
- 7.14 B8 use is generally considered to be compatible with residential uses and, taking into account the above and in the absence of a formal objection from SHDC Environmental Protection, it is not considered that there is a defensible reason for refusal on the grounds of residential amenity.
- 7.15 Impact upon character and appearance of the area
- 7.16 Objectors raise a concern that the proposal would affect the character of the area. However, the site is located to the rear of an existing property and the proposed earth bund would minimise the visual impact when viewed from Bourne Road. Furthermore, there are existing industrial units on the other side of Bourne Road and the site itself is between the existing premises of MJL Skipmaster and the County Council Highways depot on the other. The proposal would effectively be an expansion of MJL's existing premises and taking into account the above, it is not considered that it would be out of keeping with the existing character of development in the area.
- 7.17 Highways
- 7.18 Concern regarding highway safety has been raised by a member of the public, however, the Highways Authority have not objected to the proposal. There is therefore no justifiable reason to refuse the application on highways grounds.
- 7.19 Other considerations
- 7.20 One objector asks various questions regarding use classifications and suggests that the applicant has not been transparent through the application. However, the supporting information does contain further details on the proposal. It is accepted that the submission of supporting information has been somewhat piecemeal, however this has been made publically accessible at all times and reconsultation carried out with residents when necessary.
- 7.21 Concern was raised that the proposal infringes on a legal right of way to the east of 346 Bourne Road. The amended plans take this into account and the site boundary is now clear of this area.
- 7.22 Concerns have also been raised regarding surface water drainage. It was originally proposed that power washing would take place on the site to the rear of the skip storage area, however, the applicant has since amended their plans and confirmed that any power washing would take place within the existing power washing bay within the existing site. Furthermore, LCC as Lead Local Flood Authority have not objected to the proposal. It would, therefore, be unreasonable to

refuse the application on the grounds of unacceptable surface water drainage.

- 7.23 The impact on the condition of the land by storing approximately 200 skips is another concern raised. However, the proposed storage area shown on the plan would not remain grassed and would instead be constructed from crushed concrete with road planings.
- 7.24 Impact on views and property prices are considerations, however, they are ones which only carry very limited weight in the planning balance.
- 7.25 Conclusion
- 7.26 Taking the above into account, it is considered that the proposal is in accordance with Policies 1, 2, 3, 7 and 30 of the South East Lincolnshire Local Plan (2019), as well as Sections 6 and 12 of the National Planning Policy Framework (2019).
- 7.27 **Additional Considerations**
- 7.28 Public Sector Equality Duty
- 7.29 In making your decision you 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.
- 7.30 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 7.31 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 is only one factor that needs to be considered, and may be balance against other relevant factors.
- 7.32 It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.
- 7.33 Human Rights
- 7.34 In making your decision, you 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.
- 7.35 You are referred specifically to Article 8 (right to respect for private and family life), 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 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 permission subject to those conditions listed at Section 9.0 of this report.

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. 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.

3. Before the development hereby permitted is first brought into use, an earth bund and acoustic fencing as illustrated on the submitted Block Plan shall be installed and shall be retained for the lifetime of the development hereby approved.

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

4. The use of the land to the rear of 344 Bourne Road is restricted to B8 use only.

Reason: For the avoidance of doubt and in the interests of residential amenity.

5. No HGVs shall enter or exit the site using the existing access between 344 and 346 Bourne Road.

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

6. Details of any external lighting to be installed in association with the change of use of land to the rear of 344 Bourne Road shall be submitted to and approved in writing by the Local Planning Authority prior to its installation. The lighting shall thereafter be installed in accordance with the approved details.

Reason: In the interests of the residential amenity of nearby properties, visual amenity and to prevent light pollution.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

7. No more than 250 skips shall be stored on the land to the rear of 344 Bourne Road at any one time and these shall be stacked no more than 2 skips high.

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

8. No movement of any skips on the land to the rear of 344 Bourne Road shall take place outside the hours of 8:00am to 5:00pm Monday to Friday, 8:00am to 12:00pm Saturdays, nor at any time on Sundays, Bank or Public Holidays.

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.

9. 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 by identifying matters of concern within the application and negotiating, with the Applicant, acceptable amendments to the proposal to address those concerns. As a result, the Local Planning Authority has been able to grant planning permission for an acceptable proposal.

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

MapThat Scale Print Title

