

Parish: East Cowton
Ward: Appleton Wiske and Smeatons
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Committee Date :
Officer dealing :
Target Date:

1 September 2022
Mr Craig Allison
2 June 2022

21/02338/FUL

Retrospective change of use of potato store to aggregate bagging depot, with no alterations to existing buildings.

**At: Greenford Haulage & Aggregates Dept, Unit 5, Dalton Gates, Dalton on Tees
For: Mr James Ford**

The proposal is presented to Planning Committee due to the development being of significant public interest

1.0 Site, Context and Proposal

- 1.1 The application site is located on the north west fringe of the District adjacent to the administrative boundary of Richmondshire District Council. The site is accessed off a C-Road which then subsequently serves a single track road to the application site. Surrounding the site are a number of other light industrial businesses and a caravan storage site. There are no public rights of way in and around the site and the site is not readily visible from any public vantage points.
- 1.2 The applicant seeks retrospective planning permission for the change of use of a building and surrounding land as an aggregate bagging depot which is operated by Greenford Haulage Limited. This is operated by Greenford Haulage which operates a mixed fleet of tippers, general haulage and bagged aggregate vehicles. There is another company linked to the site which is James Ford Ltd which is a construction company specialising in construction and ground works. However, the application is associated with Greenford Haulage which employs 5 members of staff.
- 1.3 The business operates in terms of tippers leaving the site between 5am and 6am each morning. These lorries are typically destined for a quarry to collect material for onward delivery to customers, either locally or further afield. Later in the day, normally after customer deliveries are complete, returning tipper trucks will backload aggregates from local quarries to the applicant's yard as stock for the bagging plant. Bagged aggregate vehicles take the bagged material that is produced by the bagging plant for onward delivery to builder's merchants throughout the North East and Yorkshire.

2.0 Relevant Planning History

- 2.1 85/0806/FUL - Construction of a building for use as a potato store – Approved 22 March 1985

3.0 Relevant Planning Policies

- 3.1 As set out in paragraph 2 of the NPPF planning law requires that applications for planning permission be determined in accordance with the Development Plan unless material considerations indicate otherwise. The law is set at Section 38(6) of

the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

3.2 Relevant policies of the Development Plan and any supplementary planning policy advice are as follows;

Local Plan Policy S1 – Sustainable Development Principles
Local Plan Policy S5 – Development in the Countryside
Local Plan Policy EG7 – Businesses in Rural Areas
Local Plan Policy E1 – Design
Local Plan Policy E2 – Amenity
Local Plan Policy E7 – Hambleton's Landscapes
Local Plan Policy IC2 – Transport and Accessibility
Local Plan Policy RM1 – Water quality, supply and foul drainage

National Planning Policy Framework

4.0 Consultations

4.1 East Cowton Parish Council have commented on the application and raised the following concerns with the application:

- The access from the site is directly onto a 90 degree bend on an unclassified road
- Lorries operating from the site are long, heavy and slow when manoeuvring
- Their length of lorry means when negotiating the access from the direction of Dalton on Tees they need the full width of the road to move and turn
- Risk to road users especially because of the existence of a blind bend.
- Operations at the site involve a number of lorries leaving at 5:30am and this causes a nuisance element.

4.2 North Yorkshire County Council (Highways) has raised no objections to the application.

4.3 Network Rail has been consulted on the application and have made no observations in regard to the application.

4.4 Dalton on Tees Parish Council have commented on the application and have stated that the application should be refused for the following reasons:

- The access to this business is on a very sharp double blind bend and the large wagons are unable to turn into West Lane without swinging right onto the wrong side of the road.
- This is resulting in mud on the road which is extremely dangerous to road users.
- Wagons entering and leaving the premises as early as 5:00am which is disruptive to residents of West Lane.

4.5 North Cowton Parish Council have objected to the application with their comments summarised below:

- Concerns are raised in terms of the number of vehicles coming and going to the site
- Concerns raised over the operating times of the business
- The site is open to members of the public so extra traffic is entering the site
- The road seems unsuitable for the number and size of vehicles involved

4.6 A site notice was posted and neighbours were consulted on the application. Six letters of objection have been received in regard to this application with their comments summarised below:

- The access to this site is from the unclassified country lane linking the A167. Between the A167 there are three 90 degree corners and a narrow offset railway bridge. The lorries used by Greenford are exceptionally long and cannot negotiate any of these obstacles without using the whole road
- The access point itself is a particular danger as it is situated at one of these sharp bends
- Greenford lorries use the site all day from as early as 5am and this causing disturbance to local residents.
- Given that this a distribution site which is supplying businesses and building sites throughout the North East then a location closer to the A1 and A66 would be preferable rather than a site in the middle of nowhere

5.0 Analysis

5.1 The main issues to consider from this application include:

- the principle of development
- the impact of the development on the character and appearance of the area
- the impact of the development on highway safety
- and the impact of the development on neighbouring residential amenity

The Principle of Development

5.2 In determining application's, decisions should be taken in accordance with the development plan unless there are material considerations that indicate otherwise. The development plan for Hambleton is the Hambleton Local Plan (Adopted February 2022), of which Policy S1 states that the Council will seek to ensure that development makes a positive contribution towards sustainability of communities, enhances the environment and adapts to and mitigates the impact of climate change.

5.3 The site is located outside any defined settlement and therefore Policy S5 is applicable. The Policy states that development in the countryside will only be supported where it is in accordance with national planning policy or other policies of the development plan and would not harm the character, appearance and environmental qualities of the area in which it is located.

5.4 Policy EG7 of the Council's Local Plan states employment generating development will only be supported in locations outside the main built form of a defined settlement in the settlement hierarchy where it involves:

- a. the expansion of an existing business where it is demonstrated that there is an operational need for the proposal that cannot physically or reasonably be accommodated within the curtilage of the existing site; or
- b. the re-use of an existing building of permanent, structurally sound construction that is capable of conversion without the need for substantial extension, alteration or reconstruction and can accommodate the functional needs of the proposed use including appropriate parking provision; or
- c. a new building provided that it is well-related to an existing rural settlement and where it is demonstrated that the proposal cannot be located within the built form of a settlement or an identified employment location; or
- d. other proposals specifically requiring a countryside location.

- 5.5 In this instance, the development has re-used an existing building on the site which was previously used for the storage of potatoes. No alterations have been made to the building and it is of sound construction. The proposals meet the requirements of criterion b of policy EH7 and as such it is considered that the development is acceptable in principle subject to other material planning considerations.
- 5.6 Furthermore, it is noted that the general operations of the wider site are more akin to operations within an Industrial Estate rather than within the open countryside or an agricultural environment.
- 5.7 Clarity was sought from the applicant in terms of research into other sites within the area. The applicant's second choice location was Metcalfe Farm in Leyburn. The company had an existing working relationship with this company. However, the site had no internal space so all activity would have taken place outside which would not have allowed the applicant to undertake certain aspects of their existing operation. The other issue with this site was access to major road networks. The distance to their existing customer base was also a considerable additional distance which would have resulted in more deliveries and a greater number of vehicle movements.
- 5.8 The third choice was a piece of vacant land at Faverdale Industrial Estate, Darlington. Geographically the location would have been the preferred location. However, the site was several acres in size and arguably far too large for the applicant's operation. After enquiries into the site the purchase price of the land reflected the enormity of the site. The applicant spoke to the land agent about various options including a lease agreement for part of the site but the vendor wanted a sale on the whole site in its entirety. This site also lacked any indoor space and would not have allowed the applicant to undertake certain aspects of their current operation.
- 5.9 Therefore, the applicant opted for West Lane, Dalton Gates. The location had formerly been a manufacturing site for STC Plastics and has a long history of vehicle movements to and from the site. The site is suitably sized with enough operational space without being too large, and with a shed to ensure the operations can be undertaken. Geographically the site is well located with good transport links to the A1 and A66. It is therefore considered that the proposed development is in accordance with the Council's Local Plan Policies, in terms of the principle of development.

The Impact on the Character of the Surrounding Area

5.10 Policy E1 of the Local Plan states that all developments should be of a high quality, integrating successfully with its surroundings in terms of form and function, reinforcing local distinctiveness and helping to create a strong sense of place. All development should have a regard to relevant national and local policies, advice or guidance that promotes high quality design, details the quality or character of the area or describes how the area should develop in the future.

5.11 The National Planning Policy Framework supports this approach and, at paragraph 134, states that planning permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions. Paragraph 132 sets an expectation that applicants engage with the local community in drawing up the design of their schemes:

"Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot."

5.12 Policy E7 of the Local Plan states that the Council will protect and enhance the distinctive landscapes of the district. A proposal will be supported where it takes into consideration the degree of openness and special characteristics of Hambleton's landscapes; and takes account of areas that have been identified as being particularly sensitive to/or sensitive for certain forms of development.

5.13 The area is defined within the character assessment as within Character Area 1, known as the Cowton Hills. Key characteristics of this area are that it is undulating in the west and south of this area giving some sense of enclosure. Low levels of settlement and infrastructure, mainly comprising minor roads with the East Coast Main Line railway crossing the floodplain in the east. Glimpsed long-distance views to the North York Moors looking east, and to the Yorkshire Dales to the west.

5.14 The site is occupied by a building being used as an aggregate bagging depot, no external changes have been made to the building and it is considered to have no impact on the character and appearance of the area. Furthermore, the site is not readily viewable from any public vantage point and results in no significant lasting impact on the character or appearance of the countryside and the undulating nature of this area. It is therefore considered that the development is in accordance with Hambleton Local Plan Policies E1 and E7.

Impact on Highway Safety

5.15 Policy IC2 of the Hambleton Local Plan states the Council will work with other authorities and transport providers to secure a safe and efficient transport system that supports a sustainable pattern of development that is accessible to all. A proposal will only be supported where it is demonstrated that highway safety would not be compromised, and safe physical access can be provided to the proposed development from the footpath and highway networks.

- 5.16 North Yorkshire County Council (Highways) have commented on the application and raised no objection to the proposal. As noted by the level of objection to the application, the majority of the concerns raised in representations have included concerns in regard to the access and the use of the nearby roads. Further clarity has been sought from the Highways Authority in regard to these points.
- 5.17 It has been raised in representations that West Lane is too narrow to accommodate large vehicles. However, it is noted that the road has a centre line and national standards state that a centre line cannot be applied to a road narrower than 5.5 metres. On site measurements indicate that the road meets/exceeds this standard. It is widely accepted that 5.5 metres is sufficient for two HGVs or an HGV and a car to pass comfortably. Therefore, it is difficult to conclude that West Lane is too narrow, accepting that the applicant operates large HGVs.
- 5.18 There are a number of different land uses along West Lane that generate HGV traffic including several farms, Croft Racing Circuit, a garden centre, a timber supplier and other light industrial uses. The Highways Authority has no recent records of injury-causing collisions along this road to suggest there is a road safety issue.
- 5.19 Moorhouse Bridge is maintained by Network Rail, it does not currently have a structural weight limit (which would be expected if it is unsuitable for HGVs at the legal limit of 44 tonnes) nor are the County Council aware of any plans to introduce such a weight limit. Furthermore, Network Rail were consulted on this application and raised no objections to the development.
- 5.20 The visibility available at the existing access has been assessed as falling below the standards set out in the Design Manual for Roads and Bridges. However, due to its history of use (including a caravan storage facility and other businesses served by the same access) and low traffic speeds expected at that point on West Lane due to the road alignment a refusal on highway grounds would be difficult to sustain. Therefore, it is considered that the proposed development does not cause a severe impact to highway safety and the proposed development is in accordance with Policy IC2 of Hambleton's Local Plan.
- Impact on Residential Amenity
- 5.21 Policy E2 of the Council's Local Plan states that all proposals will be expected to provide and maintain a high standard of amenity for all users and occupiers including both future occupants and users of the proposed development as well as existing occupants and users of neighbouring land and buildings. A proposal must ensure that there are no significant adverse impacts in terms of noise, odour and obtrusive light pollution.
- 5.22 Various comments have been received in regard to traffic movements off site early in the morning. These movements are predominately tipper trucks leaving for quarries, to load with aggregate to be delivered to customers both locally and nationally. These vehicle movements are covered under the applicant's Goods Vehicle Operators License that was obtained in November 2020, which states that the site should have no more than 13 vehicles and six trailers. Furthermore, other early vehicle movements on/off site can be attributed to neighbouring businesses who share the same address. A number of businesses operate within the yard and

make a number of deliveries throughout the day and night. Another business who shares the same access road, albeit into a separate site, accounts for the majority of weekend and bank holiday vehicle movements due to the delivery and collection of caravans from the caravan storage facility.

- 5.23 Comments have also been received stating that HGV's travel past residential properties along West Lane as early as 5:00am and this is causing harm to residential amenity. However, the access to the site does not serve any residential properties. Properties in the wider area are otherwise located on a public road. Therefore, imposing a condition restricting hours of operation would not prevent the operator from driving on the public road at 5:00am. As the site is not near any residential properties it is considered that the development does not result in any significant impact on amenity and as such is in accordance with the Council's Local Plan Policy E2.

Nutrient Neutrality

- 5.24 The site falls within the River Tees catchment and is caught by the issues of nutrient pollution resulting from the impact of nitrogen on the River Tees and Cleveland Coast Special Protection Area and Ramsar sites. The identified cause of the eutrophication of the River Tees is excess nitrogen that is finding its way into the River Tees catchment from agriculture, surface water run-off and sewage works. At this time new development must not result in any additional nitrogen being emitted into the catchment.
- 5.25 In order to be able to approve the development, it must be satisfied that the development is neutral in its nitrogen impact and the development assessed against the Habitat's Regulations.
- 5.26 In this case the protected site is the Tees Ramsar and SPA site and Natural England has specifically cited the issue of nitrogen impacting on the site and causing growth of blanket weed across the mudflats, which is impacting on plant and wildlife as a result.
- 5.27 The proposed development could impact by way of introducing additional nitrogen to the catchment and as such is considered to fall within scope. On this basis it must be demonstrated that either the proposal results in a net zero nitrogen impact or that sufficient mitigation can be put in place to offset any additional nitrogen from the site.
- 5.28 As this is an employment site it has to be established where the current employees main residence is to demonstrate that there is not a net gain in nitrogen. The applicant has stated that all owners and employees are local people and are from Darlington, Scorton, Brompton on Swale and Catterick. Some of the areas where the employees live is outside of the catchment area and therefore there is potential for a net increase in nutrient neutrality. However, as this is an existing building and was previously used by STC Plastics as a manufacturing plant it has current facilities already installed to existing foul drainage on the site, it is considered that there is no net increase in nitrogen from this development and on this basis the requirements of the Habitats Regulations are met.

Planning Balance

- 5.29 The application is for a change of use of an existing building and surrounding land for the running of an aggregate bagging depot. No external changes have been made to the existing building and the operation is considered to cause no harm to the immediate character of the area. It is considered that the access to the site is acceptable from a Highway perspective and is not considered to result in a severe impact on highway safety. It is therefore considered that the development is in accordance with the Council's Local Plan Policies and the overarching principles of the National Planning Policy Framework.

6.0 Recommendation

That subject to any outstanding consultations the application be **GRANTED** for the following reason(s):

1. The permission hereby granted shall not be undertaken other than in complete accordance with the drawing(s) numbered Location Plan received by Hambleton District Council on the 14 December 2021; and Photos of the Elevation of the building; received by Hambleton District Council on 20 January 2022; unless otherwise approved in writing by the Local Planning Authority.
2. There shall be no more than thirteen (13) heavy goods vehicles and six (6) trailers kept on the site at any one time.
3. There will be no maintenance of heavy goods vehicles (other than in emergency to maintain the legality of a vehicle) on the site at any time.

Reasons:

1. In order that the development is undertaken in a form that is appropriate to the character and appearance of its surroundings and in accordance with the Local Plan(ies) S51 and S5
2. In order to control the use of the site to ensure that it does not expand further into the countryside in accordance with Policy S5 and EG7.
3. In order to control the use of the site to ensure that it does not expand further into the countryside in accordance with Policy S5 and EG7.