

Parish: East Cowton
Ward: Appleton Wiske and Smeatons
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Committee Date : 16th March 2023
Officer dealing : Mr Craig Allison
Target Date: 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

The application was previously considered by the planning committee on the 1 September 2022. The application was deferred to allow consideration on the site and its usage, the use of neighbouring sites and for a comprehensive highways report. The officer report set out below has been updated accordingly to consider the retrospective application.

1.0 Site, context and proposal

- 1.1 The application site is located on 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. Within the wider site where Greenford Haulage & Aggregates operate, beyond the red line boundary, there are several businesses operating out of existing buildings on the site. This is Hill Cross Furniture Limited, Lingy Moor Farm Limited and White Rose Agriculture Limited. Each of these businesses use these units as storage and distribution for either the storage of furniture (associated with Hill Cross Furniture) or storage of cereal crops. Further along and to the east of the application site is Dalton Caravan Storage. There are no public rights of way in or around the site and the site is not visible from any public vantage points.
- 1.2 The applicant seeks retrospective planning permission for the change of use of a building and surrounding yard as an aggregate bagging depot which is operated by Greenford Haulage Limited. The building was originally granted permission in 1985 for the storage of potato's and is now being used for the storage of aggregates. The red line application site has no other planning history associated with it. Within the building aggregates are tipped into various sections, to which low loaders then move the aggregates into a machine to enable them to be bagged ready for distribution. Once the aggregates are bagged these are then placed onto the back of lorry ready for distribution. The site is operated by Greenford Haulage which operates a mixed fleet of tippers and bagged aggregate vehicles. The tipper lorries are generally 32 tonne vehicles that are typically used to carry bulk materials such as aggregates from quarries to the site. The bagged aggregate vehicles are flat back trailers in order to carry the materials for distribution to customers/clients and are 32 tonne vehicles. The applicant also employs 5 members of staff.
- 1.3 The business operates with tippers leaving the site between 5am and 6am each morning depending on the destination of the lorries. These lorries are typically

destined for a quarry to collect material for onward delivery to customers, either locally or further afield. At around 6am the bagged aggregate vehicles leave the site to ensure aggregates arrive at their customers in time for when they open. These vehicles will generally deliver to builder's merchants throughout the Northeast of England and Yorkshire. Later in the day, normally after customer deliveries are complete, returning tipper trucks backload aggregates from local quarries to the applicant's yard as stock for the bagging plant. The typical working hours of the site is Monday to Friday 6am to 6pm; Saturdays 6am to 12:30pm and no time on a Sunday or Bank Holidays.

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

4.0 Consultations

- 4.1 East Cowton Parish Council have commented on the application and raised the following concerns, as summarised:
- The access from the site is directly onto a 90 degree bend on an unclassified road
 - Lorries operating from the site are long, heaving 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 Authority) have raised no objections.
- 4.3 Network Rail have made no observations.

- 4.4 Dalton on Tees Parish Council have commented 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. Their comments are 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 Environmental Health have considered the application on the potential impact on amenity and likelihood of the development to cause, and/or be affected by a nuisance. It has been noted that part of the yard is not hard surfaced with a material that can be easily cleaned. The aggregate bay walls appear to be too low to adequately contain materials stored in them. This could give rise to unacceptable amounts of airborne dust. Therefore a suitable condition is proposed to remedy this matter.
- 4.7 A site notice was posted and neighbours were consulted. Six letters of objection have been received 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 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.
 - Since the operation has started on the site it is evident that vehicles have left the site as early as 04:50 and vehicles have returned to the site as late as 22:15, which is well beyond the operating hours stated within the application form.
 - The noise and vibrations from the vehicles passing at speed is louder than any other vehicles using this road, especially during anti-social hours.
 - The section of road on West Lane from the turning by Dalton Meadows to the junction with the B1263, Richmond Road is consistently under 5.5 metres wide and therefore is not suitable for two HGV's to pass. HGV's should not operate in this area as non-compliance with Highway's policy and public safety.

- There are no public footpaths along West Lane, and therefore residents are forced to walk on the road or on the verges. The existing verges are not maintained and are being eroded by HGV's and wide vehicles, the eroding verges are therefore causing a danger to members of the public.
- The entrance to the site is on a 60mph road with below standard visibility. Vehicles entering the site from Dalton on Tees must cross into oncoming traffic to navigate the entrance, they must do this with no sight of what is coming in the other direction.
- The site in question and the immediate surrounding area contains a number of existing businesses which operate HGV's. At present no less than six companies have a license to operate a total of 21 HGV's and 17 trailers in this area. There is also a pending license application to increase this to 23 HGV's and 19 trailers, these figures exclude Greenford's operating license and use of the site which will take the total to 36 HGV's and 25 trailers. Therefore, the question is how many HGV and trailers can operate on this stretch of road when it is not suitable for HGV traffic.
- Another business operates from the site called Loads of Stone which offers the sale of aggregates to businesses and the public, members of the public can also visit the site.
- West Lane is being used by HGV traffic on a regular basis and is resulting the road condition taking an abnormal strain and resulting in damage to the drains on the road which needs constant repair.

5.0 Analysis

- 5.1 The main issues to consider are; (i) principle of development; (ii) the impact of the development on the character and appearance of the area; (iii) the impact of the development on highway safety; and (v) the impact of the development on neighbouring residential amenity.

Principle of development

- 5.2 In determining application's, the 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 of the Local Plan states 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 of 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 criteria c of policy EG7 is relevant. The proposal has re-used an existing building on the site which was previously used for the storage of potatoes. The current operation started operating from the site since January 2021. Prior to Greenford Haulage operating from the site there was no other businesses operating from the application site. No alterations have been made to the building and it is of structurally sound construction which is capable of conversion. Consideration of whether the proposal meets the functional needs of the business will be considered within this report.
- 5.6 It has been raised that the general operation's on the site may be more suitable to be operated within an existing industrial estate rather than within the countryside. Clarity was sought from the applicant regarding other potential sites that could accommodate the use within the area.
- 5.7 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 as the operation requires the aggregates to be stored inside in various bays inside before being distributed to customers. The other issue with this site was access to major road networks. The distance to their existing customer base was also a considerable further distance which would have resulted in more deliveries.
- 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 it was considered that 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 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.

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 help to create a strong sense of place. All development should have 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 Planning 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.
- 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 is 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 utilises an existing building and yard as an aggregate bagging depot. No external changes have been made to the building and the proposal is considered to have no impact on the character and appearance of the area. The site is not viewable from any public vantage point and is accessed down a lane from the main C road. It is seen within the context of other industrial buildings and yard space as well as a caravan storage facility. It is therefore considered that the development is in accordance with Hambleton Local Plan Policies.

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 Authority) 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 have been raised in regard to the access of the site 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 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 HGV's or a HGV and a car to pass comfortably. Therefore, it is difficult to conclude that West Lane is narrow.
- 5.18 There are a number of different land uses along West Lane that generates HGV traffic such as 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 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 have been consulted on this application and raised no objections to the development.
- 5.20 The location had formerly been a manufacturing site for STC Plastics and has a long history of vehicle movements to and from the site. STC Plastics previously operated from one of the adjacent existing buildings on the site which is currently being used by Hill Cross Store Furniture, Lingy Moor Farming Limited and White Rose Agriculture Limited.
- 5.21 The visibility available at the existing access has been assessed as falling below the standards set out in the Design Manual for Road 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 of 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 danger to highway safety and is in accordance with Policy IC2 of Hambleton's Local Plan.

Impact on residential amenity

- 5.22 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 user 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.
- 5.23 Concerns have been received in regard to early traffic movements off site. These movements are predominately tipper trucks leaving for the quarries to load with aggregate to be delivered to customers both locally and nationally. These vehicle movements are incorporated into the applicants 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. Based on the operation of the site with vehicles either going to quarries or to customers it is expected on average per day that the business has 30 HGV movements a day from the site. Furthermore, other early vehicle movements on/off site can also be attributed to neighbouring businesses who also operate from the adjacent industrial units which are outside the red line

boundary of the site but use the same entrance to the site. Several businesses operate within the wider site and have number of deliveries throughout the day and night. Another business who shares the same access road, albeit into a separate site, to where all the industrial businesses operate is a caravan storage business to which some movements will be associated with but will not be used on a daily basis due to the nature of the business.

- 5.24 However, it has been noted that residents have stated that HGV's travel past residential properties along West Lane as early as 5:00am and this is causing harm on residential amenity. The access road to the site is not served by any residential properties, however in the surrounding area are several residential properties and the passing of large HGV tipper trucks will cause some disturbance especially in the early hours of the morning. Therefore, it is considered appropriate to impose a suitable time restriction condition for the operation of the site, including vehicular movements leaving and entering the site in order to minimise any impact on nearby residential properties of between 07:00 to 18:00 Monday to Friday and 07:00 to 12:30pm on Saturday with no time on Sunday or Bank Holidays. This would ensure that the development could accord with Policy E2 of the Council's Local Plan.
- 5.25 Furthermore, it has also been raised that the site is not suitably surfaced which could result in airborne dust causing harm to residential properties and adjacent businesses on the site. Therefore, to remedy this matter it is suggested that a suitable condition is imposed to ensure that the yard area is surfaced in a suitable material so it can be cleaned appropriately to prevent dust airborne.

Nutrient neutrality

- 5.26 The site falls within the Tees River 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. 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.
- 5.27 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.
- 5.28 In this case the protected site is the Tees Ramsar and SPA site and Natural England has specifically cited the issue of nitrogen impacting of the site and causing growth of blanket weed across the mudflats, which is impacting on plant and wildlife as a result.
- 5.29 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 0 nitrogen impact or that sufficient mitigation can be put in place to offset the net additional nitrogen from the site.

- 5.30 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 previous 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 neutrality from this development.

Other matters

- 5.31 It has been raised that the site has a number of other uses that are operational from the site which should be considered as part of the application. This has been investigated further and the following information is relevant. When Greenford Haulage relocated to Dalton Gates in late 2020, they undertook a change in terms of restricting their business model. This change was partially brought about by the expired planning consent at their former processing site in Catterick.
- 5.32 The Catterick site was very different in terms of planning and permits. For several years they operated a recycling/waste recovery operation alongside a bagged aggregates. Their previous portfolio comprised of:
- Pre-Packed building and Decorative Aggregates (in line with their current offering but on a smaller scale)
 - Loose Bulk Aggregates (Delivery of quarried and recycled aggregates via tipper trucks)
 - Wate Transfer (In line with Environment Agency permits specific to the Catterick site)
 - Road Sweeping (Required by Highways Agency to maintain the road outside the recycling site but also doubled as a source of income)
 - Plant & Machinery Hire (Environment Agency permits crushing and screening activities to spring and summer months. During winter these machines were hired out to other companies to ensure that fixed costs were covered year round)
- 5.33 Since relocation to Dalton Gates the applicant has relinquished all permits associated with waste management as they no longer have a site where such activities were permitted. They occasionally hire a road sweeper at Dalton Gates to keep the site tidy but can no longer warrant owning one. All plant and machinery that was available for hire was sold prior to arrival at Dalton Gates in line with their departure from Catterick.
- 5.34 As such the only activities that are undertaken at Dalton Gates are the following:
- Pre-Packed Building & Decorative Aggregates; vehicles take the bagged material that is produced by the bagging plant for onward delivery throughout the North-East and Yorkshire.
 - Loose Bulk Aggregates; 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 applicants yard as stock for the bagging plant.

- 5.35 Within the applicant's Pre-Packed Building & Decorative Aggregates portfolio, the applicants do operate a trading name of LoadsofStone.com (LOS). LOS is not a completely separate business as it does not exist on companies house, have a VAT Registration number or bank account. LOS is a trading name of Greenford Haulage. The name was chosen on the grounds that it avoids conflict of interest with the applicant's merchant customers. However, the process of bagging the material and distributing from Dalton Gates is identical to any of the merchant deliveries. It has been noted in the objections that the site is open to customers visiting the site. The objections received note that LOS provided a collection service for customers to visit the site to collect aggregates. This has been raised with the applicant who stated that did operate this service but only actually received on average one customer a month visiting the site. Therefore, as this does not appear to be a viable option, the option of customers visiting the site has been removed from the website and is a service no longer available. A suitable condition can be imposed to ensure no customers visit the site.
- 5.36 It has also been stated that a sister company James Ford Ltd operates from the site. However, the applicant has confirmed that James Ford Ltd no longer trades from this address. James Ford recently purchased neighbouring land at Dalton Gates from which to run this business which is outside the red line boundary of this application and therefore this business no longer has any involvement within the red line boundary of this application.
- 5.37 Therefore, it is considered that the applicant is applying for a change of use of the building and land within the red line boundary as an aggregate bagging depot and it is found that no other uses are operating from the land within the red line boundary which necessitate the description of development being changed.

Planning Balance

- 5.38 The application is for a change of use of a building and surrounding yard for the running of an aggregate bagging depot. No external changes have been made to an existing building and the operation is considered to cause no harm to the immediate character of the area. It is considered that access to the site is acceptable and the proposal is not considered to have a significant impact on highway safety. Subject to restrictive controlling conditions it is considered that harm to residential amenity can be minimised to an acceptable level. It is considered that the site can accommodate the functional needs of the business and the proposal reuses a building which is structurally sound and capable of conversion. 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 shall be no maintenance of heavy goods vehicles (other than in emergency to maintain the legality of a vehicle) on the site at any time.
4. The site shall not be operated outside the hours of 07:00 to 18:00 Monday to Friday and 07:00 to 12:30 on Saturday and at no time on a Sunday or Bank Holidays.
5. Within two months of the date of this decision the applicant shall submit a scheme to surface the yard area where the aggregates are handled, and details of the external aggregate bays. The scheme should include details of the surface; details of how external aggregates are stored; and a dust management plan to control dust from the site. Once approved the yard should be surfaced in accordance with the approved details within three months of this decision and maintained in accordance with the approved details thereafter.
6. No members of the public shall visit the site at any time to purchase any aggregates off the site.

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.
4. In order to ensure that the development does not cause any noise and disturbance to local residents in accordance with Policy E2.
5. In order to control and protect the amenity of adjoining land and to prevent the spread of dust beyond the site boundary in accordance with Policy E2.
6. In order to control the use of the site to ensure that no additional traffic movements occur at the site in accordance with Policy S1.