

SOUTH NORTHAMPTONSHIRE COUNCIL – DELEGATED REPORT

Application for Planning Permission

Application No.	S/2019/2023/FUL	Case Officer:	Shikha Dasani
Statutory Expiry Date:	12 December 2019	Consultation Expiry Date:	Consults date: 27 December 2019 Re-consults date: 9 December 2019
Site:	Land West Of Old Cosgrove Road, Old Stratford, Northamptonshire, MK19 6FQ		
Proposal:	Change of use of land to an open storage yard (Use Class B8) and associated works, including construction of new access, installation of palisade fencing and landscaping. Part retrospective		

RECOMMENDATION

Refuse, for the reasons set out on the attached decision notice

APPLICATION SITE

The application site relates to a vacant area of land located to the north of Old Stratford and the A5 trunk Road. Access to the site is via a rough private road which also serves as an access to an existing commercial yard which acts as a storage depot as well as a separate access point serving Knotwood Fields Farm which is accessed under the A508. In addition to this the main access also allows for a vehicle access to the travelling show people warehouse building which is located at the bottom of the access road.

The site currently comprises of an unkempt area of land with parts used as storage of varying types of materials. These include large concrete bollards / drain pipes / rubble / plastic barriers / wooden pallets / metal site security fence panels. Although the general appearance of the site appears as an area where material has been dumped, there is an element of order in that the material is roughly arranged and stored in some form of order. Notwithstanding this there are large areas of the site which are clearly overgrown with vegetation and have not been used for any storage use while other areas of the site are rutted with deep mud where heavy vehicles have travelled to deposit the materials outlined above.

CONSTRAINTS

- Open countryside location;
- Flood zones 2 and 3.

PROPOSAL

Change of use of land to an open storage yard (Use Class B8) and associated works, including construction of new access, installation of palisade fencing and landscaping. Part retrospective.

The application seeks planning permission for the use of this site as an area of open storage. The application also seeks permission for the creation of a new access point

off Cosgrove Road and the enclosure of the site with a palisade fence (to be finished green) to a height of 2.4m.

The Planning Statement submitted in support of the application explains that the use would function as an extension of the applicant's existing business which operates from an authorised contractor's yard some 100 metres to the west. The business is a construction and engineering contractor's yard operating in the local area.

RELEVANT PLANNING HISTORY

- S/2018/2064/FUL - Change of use of land to open storage associated with adjacent contractor's yard (retrospective) and erection of 2.4m high palisade fence Refused. 24/10/2018
- S/1998/1026/P Knotwood Farm And Furtho Pit Old Stratford Construction Of 18 Hole Golf Course, Clubhouse And Driving Range And Relaxation Of Occupancy Condition On Farmhouse (Renewal Of S930697p) 19/10/1998 (10) Approval 11/06/1999 Website
- S/1993/0685/P Furtho Pit Old Stratford Continued Use Of Land For Storage Of Plant & Machinery Without Complying With Condition 1 (Personal User) On Permission Tow 71/268 03/08/1993 (10) Approval 02/09/1993 Website
- S/2003/1649/P Knotwood Farm and Furtho Pit Old Stratford Construction of 18 hole golf course clubhouse and driving range and relaxation of occupancy condition on farmhouse (Renewal of S/1998/1026/P) 01/12/2003 (10) Approval 24/05/2004 Website
- S/1993/0697/P Knotwood Farm And Furtho Pit Old Stratford Construction Of 9 & 18 Hole Golf Courses, Clubhouse & Driving Range And Relaxation Of Occupancy Condition On Farmhouse (Renewal Of S901358p) 06/08/1993 (10) Approval 25/11/1993 Website
- S/1992/0258/P Knotwood Farm And Furtho Pit Old Stratford Construction Of 18 Hole Golf Course,clubhouse And Driving Range, And Relaxation Of Occupancy Condition On Farmhouse 16/03/1992 (10) Withdrawn 23/11/1992 Website
- S/1990/1358/P Knotwood Farm And Furtho Pit Old Stratford Construction Of 9 & 18 Hole Golf Courses, Club House & Driving Range, and Relaxation Of Occupancy Condition On Farmhouse 27/12/1990 (10) Approval.
- S/2016/0958/LDE Cosgrove Road Old Stratford Certificate of Lawfulness for Existing Use comprising of B8 use (Storage and distribution) 05/04/2016 10 - Appeal Dismissed
- S/1988/1444/PC Land At Furtho Pit Cosgrove Road Old Stratford Continued Use For Extraction Of As Raised Sand And Gravel(Hoggin) And Infilling To Restore Land To Agricultural Use 18/10/1988 (10) Approval 27/04/1990 Website
- S/1984/0094/P Vacant Land Adjoining Cosgrove Road Knotwood Farm Old Stratford Erection of temporary site, administration office and stores. 27/01/1984 (10) Approval 08/03/1984 Website

KEY ISSUES

- Principle;
- Appearance;
- Highway implications;
- Flooding;
- Ecology.

RELEVANT PLANNING POLICIES

Planning law requires that applications for planning permission must be determined in accordance with the Development Plan, unless material considerations indicate otherwise.

The Development Plan

SOUTH NORTHAMPTONSHIRE LOCAL PLAN (SNLP): Policies G3, EV1, EV2, EV21, EV29, E3 and E7.

WEST NORTHAMPTONSHIRE JOINT CORE STRATEGY (JCS): Policies S1 (distribution of development), S8 (distribution of jobs), S10 (sustainable development principles), C2 (new developments), BN2 (biodiversity), R2 (rural economy).

SOUTH NORTHAMPTONSHIRE LOCAL PLAN DRAFT PART 2: SS1, SS2, EMP3, SDP1 and settlement map.

Material Considerations

NATIONAL PLANNING POLICY FRAMEWORK (NPPF): Section 2 Achieving Sustainable Development, Section 6 Building a Strong, Competitive Economy, Section 11 Making Effective Use of Land, Section 12 Achieving well-designed places, Section 14 Meeting the challenge of climate change, flooding and coastal change and Section 15 Conserving and Enhancing the Natural Environment.

PLANNING PRACTICE GUIDANCE (PPG): Sections covering Design, Climate Change, Land affected by contamination, and Natural Environment.

COUNCIL CORPORATE PRIORITIES: COUNCIL CORPORATE PRIORITIES: South Northamptonshire Council's Business Plan for 2019-20 sets out the Council's three strategic priorities which form our overarching business strategy. Below these are the key actions for the year 2019–20. This is a strategy which looks to the future taking into account the priorities and aspirations of the communities who live and work in the district.

The three corporate priorities are to ensure the District is "Protected, Green & Clean", is a place which supports "Thriving Communities & Wellbeing", and is a District of "Opportunity & Growth". All three priorities are of significance to the determination of planning applications and appeals. Below these priorities, the key actions which are of most relevance to planning applications and appeals are: (1) deliver the Local Plan; (2) increase tourism and increase employment at strategic sites; (3) develop our town centres; (4) protect our built heritage; (5) protect our natural environment; (6) promote environmental sustainability; (7) promote healthy place shaping; (8) delivery innovative and effective housing schemes; and (9) deliver affordable housing.

CONSULTATION RESPONSES

OLD STRATFORD PARISH COUNCIL: No objection.

CRIME PREVENTION DESIGN ADVISOR:

I refer you to comments made in respect of the previous application for this site S/2018/2064. Nothing has changed to alter my view and it does not look as if the crime prevention advice provided at that time has been taken note of.

(Previous advise stated: Unfortunately the use of a palisade fence system is unlikely to provide much protection from determined thieves. Palisade is not a secure fencing system even though it may look hostile and it is relatively easy to overcome. In this location with no adjacent development or passing pedestrian and vehicular traffic any thieves would be able to work undisturbed for a considerable length of time. Fence systems are available which meet secure standards but they tend to be more expensive and the amount of fencing proposed is considerable. There is a product which can be used to supplement palisade which enhances its security and this will be sent to the planning officer to pass onto the applicant. Its use is strongly recommended. As it stands the fencing proposed will not be secure enough to prevent thefts and unauthorised access into the storage area).

CANAL AND RIVER TRUST: No comments to make on this proposal

HIGHWAYS:

The local highway authority has reviewed the above proposed (retrospective) application and has the following comments and requests.

- The LHA require details of the largest vehicle expected to use the site to ensure the gates are set far enough back to allow the vehicle to stand off the highway should the gates be closed.
- The access should be shown on a scaled drawing to include both vehicular and pedestrian visibility splays (Please ask the applicant to refer to the Standing Advice document attached)

The LHA will be able to advise the applicant on the construction and length of surfacing required for the access when the types of vehicles expected to use it are confirmed.

Additionally please see the attached plan which shows the highway in green and the route of a potential Public Footpath diversion marked in red. Currently this is not confirmed but is looking too be diverted as part of a nearby wind farm development. This is advisory information at this stage as it is just a proposal and the Definitive Map Team (defmap@kierwsp.co.uk) would be able to offer further information and advice.

REVISED HIGHWAYS COMMENTS:

The local highway authority has reviewed the additional information regarding the types of vehicles proposed to use the site; and has no objections to the above application.

REPRESENTATIONS

None received.

Assessment:

PRINCIPLE OF DEVELOPMENT:

Within the emerging South Northampton Plan Part 2 under Policy AL5 this is an allocated employment site. Given that the sites proposal is for storage covered within the use class B8, the use itself would in principle be acceptable given that there can be more weight given to this policy. In the existing local plan, the site falls within the open countryside.

Notwithstanding the Policy issue there are other material considerations which need to be taken into account before reaching a decision. These other issues have been outlined within the main body of this report.

APPEARANCE:

The condition of the site as previously assessed by the case officer is still in poor condition, where the site is untidy and has material and stock scattered and dumped all over the site. During the course of the application, the applicant was advised to perhaps consider a building to which the materials, tools and equipment can be kept safely, whilst meeting the requirements of Policy EV1, the applicant wished to proceed with the application as it was submitted.

Saved Policy G3(A) states that *planning permission will normally be granted where the development is compatible in terms of type, scale, siting, design and materials with the existing character of the locality*. Saved policy EV1 states that in terms of design proposals for new development will be expected to pay particular attention to the following elements of design; (i) existing site characteristics including landscape features and levels; (ii) the relationship with adjoining land and buildings; (iii) the scale, density, layout, height, massing, landscape and materials in relation to the site and its surroundings; (iv) the appearance and treatment of the spaces between and around buildings.

It is accepted that there is a sense of order across the site, the overall condition and appearance of the site does not enhance this area but instead demonstrates untidy land. The boundary to the site along Cosgrove Road is overgrown with hedgerow and trees and although it is accepted that this does allow a sense of screening the overall impression is of an unkempt area of land. As outlined above the area is allocated as an employment site in the emerging Part 2 Local plan and although it is accepted that the condition of the surrounding area of the site is of a rough area of unkept land it is considered that the employment allocation will see the development of the surrounding area with employment uses. This will contrast to the area of the site used as open storage with an appearance of an area of unkept land.

The proposal to enclose the site with a 2.4m palisade fence and the provision of a new access point off Cosgrove Road will do little to enhance this area, however, this element itself would not warrant a refusal. The continued use of the site as open storage with new engineered access and fencing will however, do little to enhance the area and the site as part of a future an employment area in this area.

HIGHWAY IMPLICATIONS:

The application seeks permission for a new access point into the site off Cosgrove Road. Policy G3(B) states that *planning permission will normally be granted where the development possesses a satisfactory means of access and provides adequate parking, servicing and turning facilities, including for the disabled*. Having requested for further details such as the type of vehicle to be using this site and details relating to the access, Highways Officers are satisfied that the application now meets the requirements of visibility splays, access and types of vehicles.

FLOODING:

The northern edge of the application site is located alongside the southern bank of Dogsmouth Brook and parts of the site are therefore within an area of flood zone 2 and 3. Saved Policy G3 (M) states that *planning permission will normally be granted where the development provides for satisfactory foul and surface water drainage.*

The issue of flooding is also covered by Policy BN7A of the JCS which states, amongst other things, that *development should use sustainable drainage systems, wherever practicable, to improve water quality, reduce flood risk and provide environmental and adaptation benefits.* Policy BN7 continues by stating that *all new development, including regeneration proposals, will need to demonstrate that there is no increased risk of flooding to existing properties, and proposed development is (or can be) safe and shall seek to improve existing flood risk management.* Furthermore, the policy continues by stating that *all proposals for development of 1 hectare or above in flood zone 1 and for development in 2, 3a or 3b must be accompanied by a flood risk assessment that sets out the mitigation measures for the site and agreed with the relevant authority.*

The application has not been supported by any flood risk assessment as the area of land which has been proposed falls within the area of flood zone 1 and not 2 and 3 which was the case in the previous permission. Therefore, there is no objection to this element as the development has now been re-directed to lower flood risk zone areas of land.

IMPACT ON PROTECTED SPECIES:

The Planning Practice Guidance dated 2014 postdates the previous Government Circular on Biodiversity and Geological Conservation (ODPM Circular 06/2005), although this remains extant. The PPG states that Local Planning Authorities should only require ecological surveys where clearly justified, for example if there is a reasonable likelihood of a protected species being present and affected by development. Assessments should be proportionate to the nature and scale of development proposed and the likely impact on biodiversity.

Natural England's Standing Advice states that an LPA only needs to ask an applicant to carry out a survey if it's likely that protected species are:

- present on or near the proposed site, such as protected bats at a proposed barn conversion
- affected by the development

It also states that LPA's can also ask for:

- a scoping survey to be carried out (often called an 'extended phase 1 survey'), which is useful for assessing whether a species-specific survey is needed, in cases where it's not clear which species is present, if at all
- an extra survey to be done, as a condition of the planning permission for outline plans or multi-phased developments, to make sure protected species aren't affected at each stage (this is known as a 'condition survey')

The Standing Advice sets out habitats that may have the potential for protected species, and in this regard the site advice from the Council's ecology officer is that the proposals are unlikely to have a significant impact on protected species or habitats. There are no statutory or non-statutory designated sites within the

application boundary or within the zone of influence that are likely to be impacted by the proposals.

The proposals within the submitted Planning Statement detail that it will be cleared of overgrown weeds and that the material storage will be formalised. This initial clearance could impact on reptiles that could be present, it should therefore be carried out in a careful manner to avoid impacts on reptiles that maybe present, if reptiles are found work should stop and not recommence until a suitably qualified ecologist has advised on how to proceed.

Following on from the above, the Government's Planning Practice Guidance states that an ecological survey will be necessary in advance of a planning application, if the type and location of development are such that the impact on biodiversity may be significant and existing information is lacking or inadequate. It also advises that ecological surveys should **only be required where clearly justified, for example if there is a reasonable likelihood of a protected species being present.**

The site consists of a well-managed, closely mown, open paddock with fencing and semi-established hedgerow to the boundaries. There are a number of trees close by and in the boundary of the site which would not be affected by proposals. There are no buildings to be removed or altered due to the proposed development.

Having considered Natural England's Standing Advice and taking account of the site constraints it is considered that the site has limited potential to contain protected species and their existence on the site is unlikely. As such no formal survey is required and in the absence of which this does not result in a reason to withhold permission. An informative reminding the applicant of their duty to protected species could be included on the decision notice, in the event permission were granted.

CIL LIABILITY

This application relates to the change of use of an area of land with no additional floor area being created. Furthermore, the application relates to a commercial / employment use on the site which is not liable for any CIL charge.

CONCLUSION

The proposal therefore fails to accord with Policies G3(A), EV1 and E7 of the adopted Local Plan, policies S8, and R2 of the JCS and/or the following material considerations: sections 2 Achieving Sustainable Development, 12 Achieving well-designed places of the NPPF, sections Design, of the PPG, and fails to give due regard to the Council's Corporate Priorities.

HUMAN RIGHTS ACT

The Human Rights Act 1998 ("HRA") sets out fundamental freedoms which have been laid out by the European Convention on Human Rights ("ECHR") In making any decisions, South Northamptonshire Council ("the Council") should have due regard to and take into account any implications that may arise under the HRA. As a public authority, it is unlawful for the Council to act in a manner which is incompatible with the ECHR.

The rights under the ECHR which the Council views as being the most likely to affect planning matters are: Article 6 (the right to a fair trial); Article 8 (right to respect for

private and family life); Article 14 (prohibition of discrimination); and Article 1 of the First Protocol (protection of property).

Article 6

Officers consider that the applicant has been given the right to a fair and public hearing under its established planning process, and, therefore, has not acted outside of Article 6. The Council recognises that there are others whose rights to a fair trial (such as third party objectors) might be affected.

Officers have considered these matters and have resolved that, whilst there are potential rights in play, these will not be affected by the application due to the application being publicised by way of site notice and in the local press giving affected third parties the opportunity to comment on the application and their views taken into account when considering the application. In this case the comments/concerns raised by third parties are listed above and have been taken into account before determining the application. Furthermore should a third party be concerned about the way the application was decided they could complain to the Local Government Ombudsman or if they question the lawfulness of a decision can appeal to the Courts for Judicial Review of the application.

Article 8 and Article 1 of the First Protocol

Officers have considered the duties under both Article 8 and Article 1 of the First Protocol and have resolved that the application does respect the private and family life of neighbours and does not fail to protect the neighbours' property.

Article 14

Officers have considered that, in the event that the application is granted planning permission, there will not be any discrimination (or potential discrimination) on neighbours.

DUTY UNDER THE EQUALITIES ACT 2010

S149 of the Equality Act 2010 ("EA") sets out what is known as the Public Sector Equality Duty ("PSED"). Under the PSED, the Council, as a public authority, must have due regard to the need to, among other things, advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and has to foster good relations between persons who share a relevant protected characteristic and persons who so not share it. The protected characteristics to which the PSED refers are: (a) age; (b) disability; (c) gender reassignment; (d) pregnancy and maternity; (e) race; (f) religion or belief; (g) sex; (h) sexual orientation.

Case Officer Signature	Shikha Dasani
Date	30/12/19

Authorising Officer signature	Wayne Campbell
Date	31/12/19