

BRECKLAND COUNCIL

PLANNING COMMITTEE – 12TH JUNE 2017

DEFERRED ITEM REPORT

DEREHAM: CC WELLS, GREENS ROAD

Change of use from storage and wholesale to a mixed use for storage and wholesale and retail sale of fresh fruit and vegetables (retrospective)

Applicant: Mr Darren Pegrum, CC Wells of Norfolk

Reference: 3PL/2016/0956/CU

RECOMMENDATION: APPROVAL

Background

1. Members will recall that the application was deferred at the Planning Committee on the 12th December 2016 in order for the applicants to undertake a Sequential Test.
2. The applicant has provided a Sequential Test, which highlights a number of premises within Dereham Town Centre and the reasons why these are unsuitable for the retail sale of fresh fruit and vegetables. The premises were either too small or too big with inadequate access for deliveries and inadequate storage of bulk fruit and vegetables. In addition, the applicant states a fruit and vegetable shop would require a refrigerated/temperature controlled environment which they consider to be difficult to achieve in a Town Centre premise.
3. The applicant also states if the retail element was located in the Town Centre it would require a significant number of deliveries from the warehouse involving a number of journeys between Greens Road and the town. With a lack of parking/delivery areas, the premises could not be serviced easily.
4. The Highways Authority initially commented stating on the basis that the site benefits from pedestrian links and is accessible by a number of modes of transport, the Highways Authority would not wish to restrict the grant of permission. Since this further comments have been received stating providing conditions can be imposed to limit the area used for sales and to make the retail sales ancillary to the main B8 use, they consider it would be difficult to substantiate a highway objection.
5. Given the layout of the building and the fact the area used for the storage of the fresh fruit and vegetables is used for both elements of the business to the rear of the building and the area to the front of the building provides access and the payment counter it is difficult to restrict the floor space of the proposal.

6. In light of the above, the Sequential Test and additional information submitted, it is considered that the proposed change of use to a mixed use for storage and wholesale and retail sale of fresh fruit and vegetables would not undermine the function of the wider employment area and therefore is deemed acceptable.

Conclusions

7. Having regard to the above, it is considered that suitably worded conditions to ensure if the B8 use of the unit ceases that the A1 use should also cease and that the A1 use is solely for the sale of fresh fruit and vegetables, would be sufficient to protect the future use of the unit and to protect the general employment area.

Recommendation: Approve subject to the following conditions:

- 1) The A1 retail hereby approved shall cease if the B8 use of the unit ceases.
Reason for condition:-
In order that the Local Planning Authority may retain control over the development which could become detrimental to the amenities of the locality and the designated General Employment Area.
- 2) The A1 retail hereby approved shall be solely for the sale of fresh fruit and vegetables.
Reason for condition:-
In order that the Local Planning Authority may retain control over the development which could become detrimental to the amenities of the locality and the designated General Employment Area.

ITEM:		RECOMMENDATION: REFUSAL
REF NO:	3PL/2016/0956/CU	CASE OFFICER Heather Byrne
LOCATION:	DEREHAM C C Wells of Norfolk Greens Road	APPNTYPE: Change of Use POLICY: In Settlemnt Bndry ALLOCATION: N CONS AREA: N LB GRADE: N TPO: N
APPLICANT:	Mr Darren Pegrum C C Wells of Norfolk Greens Road Dereham	
AGENT:	Mr Anthony Evans Sketcher Partnership Ltd First House Quebec Street	
PROPOSAL:	Change of use from storage and wholesale to a mixed use for storage and wholesale and retail sale of fresh fruit and vegetables (retrospective)	

REASON FOR COMMITTEE CONSIDERATION

This application is referred to Committee due to the level of public interest.

KEY ISSUES

Site history
Principle of development
Amenity impact
Highway safety impact

DESCRIPTION OF DEVELOPMENT

This application seeks retrospective permission for the change of use of an industrial unit from storage and wholesale to a mixed use for storage and wholesale and retail sale of fresh fruit and vegetables.

The hours of opening for members of the public are as follows:

09:00 to 16:00 Monday to Friday; 08:00 to 12:00; and no opening hours on Sunday and bank holidays.

SITE AND LOCATION

The application site consists of a detached industrial unit, which falls within a designated General Employment Area with the site being bounded on three sides by existing industrial uses and to the west by open land and beyond the railway line. The site is accessed via Greens Road to the east of the site.

EIA REQUIRED

No

RELEVANT SITE HISTORY

3PL/2000/1176/F	Permission	27-11-00
Erection of four warehouse units		
3PL/2002/1135/F	Permission	07-10-02
Industrial unit for storage of fresh fruit product		
3PL/2016/0140/EU	Refusal	25-04-16
Industrial unit for the storage of fresh fruit and sale of fruit and vegetables (certificate of lawfulness)		
3PL/2016/0544/EU	Refusal	07-07-16
Industrial unit for storage of fresh fruit products, including the sale of fruit and veg to the general public (Certificate of Lawfulness)		

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

DC.01	Protection of Amenity
DC.06	General Employment Areas
DC.19	Parking Provision
NPPF	National Planning Policy Framework
NPPG	National Planning Practice Guidance
SS1	Spatial Strategy

OBLIGATIONS/CIL

Not Applicable

CONSULTATIONS

NORFOLK COUNTY COUNCIL HIGHWAYS

On the basis that the site benefits from pedestrian links and is accessible by a number of modes of transport, this Authority would not wish to restrict the grant of permission.

DEREHAM T C

The Town Council would not want a change of use from wholesale to retail, as once the principle of retail had been established, it would be difficult to object to further applications for retail use in this area. It is understood that a limited amount of ancillary retail is permissible and this should be allowed and conditioned limiting retail counter space, the area retail customers can access, and limit opening times.

ENVIRONMENTAL HEALTH OFFICERS

No objections on the grounds of Environmental Protection, providing the development proceeds in line with the application details.

ENVIRONMENTAL PLANNING

No Comments Received

REPRESENTATIONS

A petition has been received from the application, containing signatures from customers who support the application. This contains approximately 1,793 signatures.

217 letters of support received and summarised below:

- Should be encouraging healthy eating;
- Provides a useful service;
- Other businesses on the industrial estate sell to members of the public;
- Unable to get into Dereham on market days;
- Excellent produce and quality at a lower price than the supermarkets;
- Would not set a precedent;
- Should support a local business and local farmers;
- Convenient as provides adequate parking and staff carry produce to the car;
- The only greengrocer in the area and only alternative to the supermarkets;
- If application is refused would result in the loss of a business; and
- Helps to address the obesity epidemic.

Five letters of objection received and summarised below:

- Would take trade away from the town centre and market;
- Is not a retail premise;
- It is a warehouse and dangerous for members of the public;
- Health and safety regulations;
- Should be aware of the limitations of the current permission;
- Dis-advantage to other businesses;
- Not paying correct business rates; and
- The level of support highlights the level of public sales exceeds what is stated within the application.

ASSESSMENT NOTES

1.0 This application is referred to Committee due to the level of public interest.

2.0 Site history

2.1 A previous application reference 3PL/2016/0544/EU was refused for a certificate of lawfulness for an existing use in regards to the site being used for A1 retail use as well as storage and wholesale. This was refused as the Council was not satisfied that on the balance of probabilities the unit had been used for the retail sale of fresh fruit and vegetables for a continuous period of 10 years ending on 5th May 2016. In

reaching this decision the Council did not maintain that there has been no retail sales from the unit, but was of the opinion on the evidence provided, which was very limited, that retail sales had taken place, but they had not been of such a scale and consistency throughout the said 10 year period as to amount to a change of use of the unit from the storage and wholesale of fresh fruit and vegetables, (B8), to a mixed use for the storage and wholesale and retail sale of fresh fruit and vegetables.

3.0 Principle of development

3.1 This application seeks retrospective permission for the change of use of an industrial unit from storage and wholesale, (B8), to a mixed use for storage and wholesale, (B8) and retail sale, (A1), of fresh fruit and vegetables. The proposed retail sale element is classed as an A1 use which is identified as a main town centre use through the National Planning Policy Framework, (NPPF). The application site also falls within a designated General Employment Area and therefore Policy DC06 'General Employment Areas' is of relevance.

3.2 Policy DC06 states that sites that are identified as General Employment Areas will be protected for employment use. Proposals to accommodate new employment development (uses which fall within B1, B2 and B8) will be permitted on General Employment Areas where it is not a town centre use, unless the location is sequentially preferable and need has been demonstrated. This is to ensure proposals do not undermine town centre vitality or pose a threat to existing employment enterprises.

3.3 As highlighted above the proposed retail sale element (A1) is classed as a main town centre use within the NPPF. Paragraph 24 of the NPPF states that a sequential test should be applied to applications for town centre uses that are not in an existing centre. This requires applications for town centre uses to be located in the town centre, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. Paragraph 27 of the NPPF states where an application fails to satisfy the sequential test or is likely to have a significant adverse impact, it should be refused.

3.4 C.C.Wells is an established business which sells wholesale fresh fruit and vegetables from Greens Road and also to members of the public, for which this application is seeking permission. They also sell fresh fruit and vegetables at market locations within Norfolk, including Dereham on a Tuesday. The company flyer which advertises the business states they sell at Dereham Market on Tuesday, Watton on Wednesday, North Walsham and Bungay on Thursday, Beccles on Friday, and Sheringham on Saturday.

3.5 The proposed hours of opening for members of the public are as follows:

09:00 to 16:00 Monday to Friday; 08:00 to 12:00; and no opening hours on Sunday and bank holidays.

3.6 The applicant has stated the wholesale element operates outside of these trading times and states that the majority of wholesale customers collect orders before and after the public opening times. As highlighted on the proposed floor plan a small area is cordoned off for any remaining orders to be packed and collected during the day. All the fresh fruit and vegetables for both the wholesale and retail element are stored in the same area, which is fully accessible by members of the public.

3.7 In terms of justification the applicant states the wholesale use of the business remains a substantial part of the company's operation and the retail use would help to support a local company who employ a number of staff and is considered a practical way of offering a better extended service to customers from their existing premise. As highlighted above the company sell at markets across Norfolk, including Dereham on a Tuesday, which is located within the town centre. They also highlight that other than the supermarkets and aside from market days, there is no alternative supplier of fresh fruit and vegetables in the town centre.

3.8 The applicant also states given the location of the existing unit and the parking provided adjacent to the unit that this is more convenient for customers than being located in the town centre. They also state the level of retail sales do not justify a permanent premise within the town centre. The applicant advises that the retail sales amounts to approximately 20% of the overall turnover, with wholesale amounting to 45% and sales from the existing stalls amounting to 35%; however no evidence of this has been provided.

3.9 The applicant has not undertaken a sequential test to demonstrate that there are no suitable sites within the town centre. Whilst it is noted the business currently operates from the site, the unit has approval to be used for storage and wholesale, (B8), which is a suitable use within a General Employment Area. It should also be noted that it is considered the proposed A1 retail element of the business, given the proposed layout, opening hours, and level of support received, goes beyond what would be classed as ancillary to the existing use.

3.10 It is considered that suitable sites do exist within the town centre for A1 retail uses which the proposal is seeking permission for. It is therefore considered that insufficient justification has been provided to justify overriding the above policies, by allowing the unit to be used for a mixed use with A1 retail use, which seek for such uses to be located within the town centre and seek to protect General Employment Areas for employment use. The proposal is therefore contrary to Policy DC6 of the adopted Breckland Core Strategy and paragraphs 24 and 27 of the NPPF.

3.11 Whilst it is noted existing uses within employment areas undertake ancillary retail sales these are expected to be within a separated area of the premises limited to counter sales and to be of no more than 10% of the floor space of the unit.

4.0 Amenity impact

4.1 The application site adjoins industrial units and has no residential properties within close proximity and therefore it is considered the proposal would not impact unduly upon amenity in terms of noise and disturbance.

5.0 Highway safety impact

5.1 The Highways Authority raised no objections.

6.0 Other matters

BRECKLAND COUNCIL - PLANNING COMMITTEE - 12th December 2016

6.1 The Environmental Health Officer raised no objections on the grounds of Environmental Protection, providing the development proceeds in line with the application details.

7.0 Conclusion

7.1 The applicant has not undertaken a sequential test to demonstrate that there are no suitable sites within the town centre. Whilst it is noted the business currently operates from the site, the unit has approval to be used for storage and wholesale, (B8), which is a suitable use within a General Employment Area. It is considered that suitable sites do exist within the town centre for A1 retail uses which the proposal is seeking permission for. It is therefore considered that insufficient justification has been provided to justify overriding the above policies, by allowing the unit to be used for a mixed use with A1 retail use, which seek for such uses to be located within the town centre and seek to protect General Employment Areas for employment use. The proposal is therefore contrary to Policy DC6 of the adopted Breckland Core Strategy and paragraphs 24 and 27 of the NPPF.

7.2 The application is therefore recommended for refusal.

8.0 Reasons for refusal

8.1 The application fails to demonstrate that the proposed change of use satisfies the sequential test, in particular that there are no suitable sites within the town centre for A1 retail use. The proposal is therefore contrary to Policy DC06 of the adopted Breckland Core Strategy and paragraphs 24 and 27 of the NPPF.

RECOMMENDATION	Refusal of Planning Permission
-----------------------	---------------------------------------

REASON(S) FOR REFUSAL

9900	Fails the sequential test
-------------	---------------------------