

## SOUTH CAMBRIDGESHIRE DISTRICT COUNCIL

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**REPORT TO:** Planning Committee

7 October 2015

**AUTHOR/S:** Planning and New Communities Director

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**Application Number:** S/0495/14/FL

**Parish(es):** Shingay-cum-Wendy

**Proposal:** Retrospective application for the retention of building nos. 4, 5 & 6, biomass boiler, solar panels and car park.

**Site address:** Church Farm Barn High Street, Shingay  
Cum Wendy

**Applicant(s):** Monkfield Nutrition Ltd, Douglas Wise and Robin Wise

**Recommendation:** Refusal

**Key material considerations:** Principle, Residential amenity, Visual Impact, Flooding

**Committee Site Visit:** 6 October 2015

**Departure Application:** No

**Presenting Officer:** John Koch, Team Leader

**Application brought to Committee because:** The application and the general use of the site has generated significant local interest

**Date by which decision due:** 28 April 2014

### Executive Summary

1. The site has a lawful use for the intensive breeding, rearing and sale of insects and reptiles; and the storage and sale of frozen animal products and dry goods associated with the keeping of reptiles. The application seeks to retain buildings used for storage and packing as well as other development that supports the business use.
2. Consultation responses and objections received centre mainly on the intensification of the use of the site. Highway safety and the impact on residential amenity are identified as the key issues. Members are specifically required to consider if the development that is the subject of this application has led to a further intensification of the lawful use of the site and if so, whether this is acceptable.
3. The biomass boiler and car park are not considered to have intensified the use of the site and it would not be expedient to take enforcement action to seek their removal. Buildings 4, 5 and 6 are considered to have added to traffic generation to and from the site. This in turn has led a further intensification of the use of the site resulting in harm

to highway safety and residential amenity of surrounding residents. The application is therefore recommended for refusal and enforcement action as necessary.

### **Relevant Planning History**

4. S/0470/14/LD – Use of barn as a house in multiple occupancy in which six people reside - Withdrawn  
  
S/0471/14/LD – Erection of Buildings 1, 2 and 3 and their subsequent use for the intensive breeding, or support thereof, of insects for use as reptile feed – Lawful Certificate Granted  
  
S/2309/14/LD - Use of the site for the sale of insects, including their intensive breeding and rearing; the sale of reptiles, including their breeding and rearing; the storage and sale of frozen animal products and the storage and sale of dry goods associated with the keeping of reptiles – Lawful Certificate Granted  
  
S/1933/15/LD - Residential use of the flat for the occupation of 6 people (but occasionally by an additional two people) with no more than 2 people occupying each bedroom, and all of whom are employees of Monkfield Nutrition Limited – Still to be determined

### **Planning Policies**

5. *National Planning Policy Framework  
Planning Practice Guidance*
6. *South Cambridgeshire Local Development Framework (LDF) Core Strategy, adopted January 2007*  
  
ST/7 Infill Villages
7. *South Cambridgeshire LDF Development Control Policies, adopted July 2007*  
  
DP/1 Sustainable Development  
DP/2 Design of new Development  
DP/3 Development Criteria  
DP/4 Infrastructure and New Development  
DP/7 Development Frameworks  
CH/7 Important Countryside Frontages  
ET/5 Development for the Expansion of Firms  
CH/4 Development within the Curtilage or Setting of a Listed Building  
NE/1 Energy Efficiency  
NE/2 Renewable Energy  
NE/3 Renewable Energy Technologies in New Development  
NE/11 Flood Risk  
NE/14 Lighting Proposals  
NE/15 Noise Pollution  
TR/2 Car and Cycle Parking Standards
8. *South Cambridgeshire LDF Supplementary Planning Documents (SPD)*  
  
District Design Guide SPD – adopted March 2010
9. *Draft Local Plan*

HQ/1 Design Principles  
S/3 Presumption in Favour of Sustainable Development  
S/7 Development Frameworks  
TI/2 Planning for Sustainable Travel  
S/11 Infill Villages  
NH/13 Important Countryside Frontage  
NH/14 Heritage Assets  
E/16 Expansion of existing businesses in the Countryside  
CC/2 Renewable and Low Carbon Energy Generation

## Consultation

10. **Shingay –Cum-Wendy Parish Meeting** – Recommend refusal and in doing so have provided an extract of a parish meeting minute. A copy of the minute is attached to the agenda as **Appendix 1**. The minute provides a summary of the points raised by speakers at the meeting and a record of the vote taken. The vote was refuse 21; approve 19; and no recommendation 3.
11. **Local Highway Authority** (7 October 2014) - The Highway Authority (still) wishes to recommend refusal in respect to the above planning application following the submission of a Transport Statement and visibility splays as shown on drawing number Vis\_001 for the following reasons:
  12. The proposal has lead (due to it being retrospective) to an intensification of use of an access onto Flecks Lane which is a principal route through Shingay Cum Wendy and if continued would cause unacceptable interference with the safety and free flow of traffic on this highway.
  13. As far as can be determined from the submitted plan Vis\_001, the applicant does not control sufficient land to provide adequate inter vehicle visibility splays at the site access.
  14. The proposed development would therefore be detrimental to highway safety.
  15. **Local Highway Authority** (19 June 2015 in response to a request for a fuller response) - The Highway Authority can confirm that the whole site appears to be an intensification of use which we believe to be severe in transport terms. This conclusion has been formulated by investigating each part of the site individually.
  16. Utilising the same numbering as the applicants plan the Highway Authority comments as follows:
    - 1) Building 1 & 2 Insect breeding areas: to be a new traffic generator.
    - 2) Building 3 Storage: to be a new traffic generator
    - 3) Building 4 Storage : to be a new traffic generator
    - 4) Building 5 Cold Storage: to be a new traffic generator
    - 5) Building 6 Packing Shed: to be a new traffic generator
    - 6) Building 7 Biomass Boiler: to be a new traffic generator
    - 7) Building 8 Solar Panels: These solar panels have already been installed and will require minimal additional motor vehicle movements only for maintenance purposes until the solar panels are decommissioned.

- 8) Building 9 Car Park : to be a new traffic generator as at present the application site has zero car parking spaces and is proposing to introduce 52 car parking spaces which the Highway Authority believes is significant and therefore considered severe.
- 9) Building 10 House of Multiple Occupation: Please could the applicant confirm how this house is accessed as it is not shown on any of the submitted plans.
17. The existing access does not have the benefit of any inter-vehicle visibility splays and those shown within the Transport Statement cross third party land over which the applicant has no control. The Highway Authority believes that number 1 Jubilee Bungalows has objected to the scheme and therefore it is highly unlikely that these splays will ever be achievable.
18. The Transport Statement that has been submitted as a part of this application needs to show the difference between the lawful i.e. that what has already been granted planning permission and the current unlawful use of the site. The applicant has also failed to state what the proposed use of the site will be as they have stated that it will be 2,325 sq m 'other' but has failed to specify as requested what the other class is to be. The Highway Authority believes that the only lawful use of the site is the Grain and Storage/Potato storage building that was granted application number S/0172/60.
19. **Cambridgeshire County Council Asset Information Definitive Map Officer** – Public Footpath No. 6 runs through part of the application site, however none of the proposed development actually affects the route of the path. Given the development has been completed, we do not anticipate that this proposal will cause any additional traffic or damage to the footpath surface, so we have no objections to the proposal.
20. Requests an informative should planning permission be granted to ensure the footpath remains open and unobstructed at all times.
21. **Environment Agency (EA)** – No objection in principle. The entire site appears to fall within Flood Zone 1. The Agency therefore has no comment to make in respect of flood risk. Informatives are recommended in respect of pollution control
22. **Cambridgeshire County Council Flood and Water Management Team** – No development should commence until details of surface water drainage works have been submitted and approved. The details should be in accordance with the Flood Risk Assessment which accompanies the application.
23. **Drainage Manager** – No concerns if the EA has no objection.
24. **Contaminated Land Officer** – No objection and does not require a contamination assessment to be submitted.

### **Representations**

25. 7 local residents have submitted individual letters and a letter on behalf of a group of residents have been submitted raising the following concerns:
- (i) The business operating from the site is of an inappropriate size, scale and nature for the village, operating 24/7. This is an unsustainable location.
  - (ii) The business use has intensified and expanded without planning permission.
  - (iii) Increase in HGV's, vans and cars using an inappropriate narrow access to site which is also a public footpath and provides access to the rear of the frontage



- (i) The erection of 3 buildings, namely a dry goods store (building no. 4), a cold store (building no. 5), and a packing shed (building no. 6). The dry goods store is 11.2m by 15.9m, with an overall floor area of 166m<sup>2</sup> and is constructed using profile metal sheeting. The cold store is an external freezer with a metal roof covering structure. The structure varies between 4.85m and 8.4m in width and 9.3m and 13.1m in length and has an overall floor area of 118m<sup>2</sup>. The packing shed is 5.3 m by 18m with an overall floor area of 93m<sup>2</sup> and is constructed from painted concrete blocks and a flat felted roof
- (ii) A Biomass boiler and its enclosing structure (building no. 7). The building is 4.4m by 11.75m with an overall floor area of 52m<sup>2</sup> and is constructed from painted concrete blocks with a flat felt roof.
- (iii) Solar panels (building no. 8) consisting of two rows, each 50 m in length, 3m in depth and 3.5m in height.
- (iv) A car park (area 9) surfaced with compacted hardcore and providing space for approximately 52 cars.
33. The application is accompanied by amongst other things a Flood Risk Assessment and a Transport Statement.
- 34.. *Key Considerations*  
Progress on this application has been delayed pending the formal determination of applications S/0471/14/LD and S2309/14/LD. These were applications to determine whether the development as applied for is lawful and as a result can continue free of any potential enforcement action. In determining a lawful development certificate application, it is not open to the local planning authority to consider the planning merits and therefore whether the development in question is appropriate for a particular location. The decision is made based on the evidence available to the local planning authority and whether on the “balance of probability” that the uses/operations claimed are lawful.
35. The two applications were approved on 25 September 2015. Between them, they confirm that the use of the site for the sale and intensive breeding and rearing of insects; the sale and breeding and rearing of reptiles; the storage and sale of frozen animal products and the storage and sale of dry goods associated with the keeping of reptiles along with the retention of buildings no. 1, 2 and 3 can continue without the need for any (further) planning permission.
36. It is important to recognise this as it provides the necessary basis against which to judge the various aspects of this retrospective application. The issue is not simply whether the existing use of the site is appropriate in planning terms, but whether the matters that are the subject of this application are themselves unacceptable.
37. Monkfield Nutrition Ltd first occupied the site in about 1997 and what was then a small business has expanded and intensified over time. Having regard to the various representations received it appears that the use of the site has significantly intensified since 2009 and has led to numerous complaints, the main substance of which is set out in the objections to this application. It is apparent from the vociferousness of the representations received that the use of the site as it is now is harmful to both the residential amenity of surrounding residents and the free flow and safety of traffic through the village. Residents have also raised other related matters.
38. However, the key consideration in this case is the extent to which the elements that

make up this particular application, whether taken individually or collectively, have led to a further intensification of use of the site and as such have led to further planning harm in their own right.

39. *Principle*

Wendy is one of the smallest villages in the district (population 140 in 2011) and is designated as an "Infill Village". It is fair to say it is one of the least sustainable in the district. Nonetheless, Policy ET/5 provides for the expansion of an existing business for their own occupation or use either within village frameworks or on previously developed sites next to or very close to village frameworks. This is subject to there not being problems with traffic, noise pollution or other damage to the environment and does not conflict with other policies of the Plan.

40. Policy NE/2 supports the principle of proposals to generate energy from renewable sources. The purpose of the solar panels and biomass boiler would be to generate heat and energy for the business and reduce the business's carbon footprint and reliance on energy sourced from fossil fuels. No electricity would be sold to the grid and the heat would be used on site. It is considered that the installation of solar panels and a biomass boiler on the site is consistent with policy and these aspects of the proposal are acceptable in principle.

41. The increase in the size of the car park has been to provide additional car parking spaces for employees and improve the circulation space required by HGV's. The business employs some 90 employees and therefore there is a need to provide sufficient off road parking provision. Before it was extended, the car park is understood to have provided car parking for approximately 20 vehicles and now provides for 52 car parking spaces. In accordance with the Council's car parking standards a sui generis use such as this employing 90 staff would require 63 car parking spaces. On-site parking provision appears from site inspections to be generally fully taken up although there is no evidence that employees and/or visitors are forced to park off site and in this respect the provision of this level of parking per se is appropriate. A requirement to reduce the car parking area to its former level could lead to unwanted on-street parking.

42. *Visual Impact*

The buildings are relatively small scale in relation to the overall footprint and scale of the existing buildings. They are positioned in between existing buildings and therefore relate well to the existing development and are not visually intrusive. The solar panels are relatively low, and there is a reasonable degree of separation and screening from neighbours immediately to the south. The car park is located to front of the site between the existing buildings and the residential properties to the south.

43. As such, the development preserves the character of the local area and complies with Policies DP/2 and DP/3. The Important Countryside Frontage (Policy CH/7) which lies to the east of the site access and in front of Church Farm is not materially affected by the development per se. However, it is evident that vehicles entering and leaving the site have overrun part of this area resulting in a loss of verge. This causes some visual harm, albeit the fundamental aim behind the Local Plan designation has not been prejudiced.

44. *Setting of listed buildings*

Given their distance from the development itself, the setting of the two nearest listed buildings would not be harmed. This aspect of the proposal therefore accords with Policy CH/4.

- 45.. *Residential Amenity*  
The main issue is whether the component parts of the development have increased activity on the site, which in turn has resulted in an increase in noise and disturbance and vehicular traffic and thus whether such intensification has had a materially detrimental impact on residential amenity.
46. The location of the buildings and solar panels are not considered themselves to have led to any material increase in noise and disturbance arising from their use. Other objections relating to smells and light pollution are also unlikely to have increased. On the other hand, there is no evidence that car parking levels – and the consequent comings and goings by vehicles – were at the same level before either the buildings were erected or the car park was enlarged.
47. No 2 Jubilee Bungalows is accessed off the main access road and the increase in vehicles has as a matter of fact and degree intensified over time to a level that has materially impacted on the reasonable enjoyment of that property. In addition there are several residential properties in close proximity to the site access. The additional traffic movements, particularly by HGVs, have also had a harmful effect on the reasonable enjoyment of those properties. As such, the increased vehicular activity is contrary to Policy DP/3.
48. *Highway safety*  
The LHA recommends refusal on the basis that the development has led to an intensification of the use of the site as a whole. It states that Fleck's Lane is the main road through the village and is a principal traffic route. The LHA requires 2.4m x 43 m visibility splays for vehicles generally but splays of 4.5m x 43 for HGVs. The first five metres of the access back from the public highway should be 5m wide. These distances are necessary to allow for safe access and egress and to maintain the safety and free flow of traffic along Fleck's Lane.
49. The submitted drawing showing existing visibility splays clearly shows that the splays particularly for HGVs cross land outside the applicant's control (Church Farm). While this land is currently open, the splays can only be achieved with the consent of the third party and they have objected to the application. The splay on the other side crosses nos. 1 and 3 Jubilee Bungalows and while the location plan submitted with the application does not suggest this, it is understood no.1 is within the applicant's control. Nonetheless, adequate visibility cannot be achieved in either direction.
50. There is ample photographic evidence and visible signs of verge overrun to confirm that larger vehicles have great difficulty in turning into and out of the site. Access into the site in particular involves a number of lorry movements and results in delays to the passage of through traffic. The lack of adequate visibility splays for vehicles and the narrowness of the front part of the access has to be considered to be prejudicial to highway safety.
51. The buildings themselves are used for storage, packing and a biomass boiler along with a car park that has been doubled in size. The LHA argues that all of the buildings on the site are traffic generators in their own right. The extent to which this is true must be a matter of fact and degree and is difficult to quantify. The applicant has argued that the previous area for car parking incorporated grassed areas and accommodated the same number of vehicles. There is no evidence of this and the Council's own aerial photograph suggests parking was previously restricted to a hard surfaced area roughly half the size.
52. The applicant's Transport Assessment advises that the "typical" daily traffic generation



based on information provided by the applicant. This is calculated to be 63 two-way vehicle trips made of 2 HGVs, 2 7.5 tonne vehicles, 12 vans and 47 cars. Similarly uncorroborated evidence for local residents, states it is higher than this. Whatever the figure, the buildings and car park have had the capacity to increase vehicle movements. While some of the assumptions of the LHA may be wrong, it is still considered that there has been some increase in traffic movements which are harmful to highway safety contrary to Policy DP/3.

53. *Flooding*

There is photographic evidence of flooding of the neighbouring property at Church Farm, albeit the specific cause for this is unclear. There does not appear to be evidence that is as a direct result of the development in question. In contrast, the FRA identifies that the site is within Flood Zone 1 (albeit close to Flood Zones 2 and 3). Flood Zone 1 is considered to be at a low risk of flooding from all sources except surface water flooding. The site is considered to have a medium risk of surface water flooding due to the increased impermeable area created by the development over the recent years. The FRA has recommended implementing a surface water drainage strategy using sustainable drainage techniques to mitigate the flood risks posed by the development. The strategy would incorporate a restricted discharge into the adjacent watercourse, no greater than the pre-development discharge rate and the provision of on site attenuation.

54. The County Council as Flood Lead Authority has also raised no objection subject to a condition requiring the submission of details in respect of the surface water drainage details in accordance with the submitted FRA. The proposals therefore accord with Policies DP/4 and NE/11 in this respect.

55. *Public Right of Way*

The public footpath, which crosses through the site, is obstructed by buildings, but not those that form part of this application. The agent has confirmed that following the determination of the application an application to formally divert the public footpath would be submitted. The use and enjoyment of the public right of way is unlikely to have been materially affected.

56. *Conclusion*

The submitted Transport Assessment asserts that each of the component parts of the application play a vital role in the operation of the business. The difficulty in considering this application is the extent to which the various component parts have led to a material intensification of the activity on the site and its consequent impact beyond that which either existed previously or would have occurred irrespective of the development in question.

57. Officers have concluded that the biomass boiler and solar panels have simply improved the efficiency and sustainability credentials of the site as a whole. They are not in locations where they can be said to have given rise to any harmful impacts and are therefore acceptable.

58. The additional buildings 4, 5 and 6 and the car park are unlikely to have had a nil effect. While they too have improved the operational efficiency of the site, as a matter of fact and degree, they will have further intensified the use of the site beyond the level before they were erected/laid out.

59. In the event that the application is refused, members will need to consider the expediency of taking enforcement action. The first point to make is that the lack of adequate visibility splays and a substandard access will not prevent the continued

comings and goings particularly of HGVs. Neither will it prevent the business from continuing for as long as the company wish to operate from the site. Enforcement action to secure the removal of buildings 4, 5 and 6 is relatively straightforward. However, a reduction in the size of the car park may simply result in cars parking on the resulting unsurfaced areas within the site. If this was not possible, it could result in an increase in on-street parking and this would create additional problems.

60. Thus while officers fully understand the problems that the use of the site currently creates, officers consider that the only sustainable grounds for refusal relate to the additional buildings 4, 5 and 6.

### **Recommendation**

61. Officers recommend that the Committee refuse the application for the following reasons:
1. The existing site access is not provided with adequate inter vehicle visibility splays, particularly for use by HGVs. This has a prejudicial impact on highway safety. The erection of buildings 4, 5 and 6 has further assisted the intensification of the existing use of the site and as such this has had a further prejudicial impact on highway safety contrary to Policy DP/3 of the adopted South Cambridgeshire Local development Framework 2007.
  2. The unsuitability of the site access and increase in vehicular activity has as a result of the erection of buildings 4, 5 and 6 had a further material adverse impact on the residential amenity of surrounding residential properties contrary to Policy DP/3 of the adopted South Cambridgeshire Local development Framework 2007.
61. Officers recommend that in the event that planning permission is refused an enforcement notice is issued to secure the removal of buildings 4, 5 and 6 and to return the land to its condition before the works took place. The reasons for taking enforcement action are as set out in the above reasons for refusal. The suggested compliance period is three months.

### **Background Papers:**

The following list contains links to the documents on the Council's website and / or an indication as to where hard copies can be inspected.

- South Cambridgeshire Local Development Framework Core Strategy (adopted January 2007)
- South Cambridgeshire Local Development Framework Development Control Policies DPD (adopted July 2007)
- Planning File Ref: S/049514/FL

### **Report Author:**

John Koch  
Telephone Number:

Team Leader (West)  
01954 713268