

# **Officers Report**

## **Planning Application No: 138441**

**PROPOSAL:** Planning application for change of use of existing building and adjoining land to commercial use

**LOCATION:** Land East of A1133 Newton On Trent Lincoln Lincolnshire LN1 2GJ

**WARD:** Torksey

**WARD MEMBER(S):** Cllr S F Kinch

**APPLICANT NAME:** RSM Maintenance Ltd.

**TARGET DECISION DATE:** 18/12/2018

**DEVELOPMENT TYPE:** Change of Use

**CASE OFFICER:** Richard Green

**RECOMMENDED DECISION:** Grant Permission (Temporary Planning Permission for 12 Months).

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### **Description:**

The site is in the countryside to the east of Newton on Trent to the east of the A1133 and to the north of the A57 (located to the north of the junction of these two roads). The site is accessed off the A1133 through a set of security gates which give access to an unmetalled track leading to a large steel portal framed building (mainly green with a grey roof) located towards the north east corner of the site with two grey portacabins located immediately to the west of the steel portal framed building. To the south of the building is an area used for car parking and the storage of materials the rest of the site is a grass field with some trees on the southern side of the access track. The site is open on its southern boundary to a wider grass field owned by the applicant. The site has screening in the form of a hedgerow and trees on its western boundary and hedgerows on its eastern and northern boundaries with there being a hedgerow further to the south fronting the A57. The site is within Flood Zone 3 (high probability).

The steel portal framed building to be found on the site was deemed to be permitted development under an agricultural determination application (128059) granted in December 2011. The Permitted Development Order permits certain developments "which are reasonably necessary for the purposes of agriculture within that [agricultural] unit". It replaced a damaged structure that had no planning history. The application form, completed by the same applicant as this present application, stated that the new building will be used for the storage of farm tractors. Subsequent applications (132395 and 136092) to extend the agricultural building were also submitted by the same applicant. In August 2018 an application (137872) submitted by the same applicant was withdrawn when the present commercial use (RSM Maintenance Ltd) of the agricultural building was brought to light.

The applicant has now applied to change the use of the existing agricultural steel portal framed building and surrounding land to a commercial use under this application (138441). The steel portal framed building contains storage areas and a workshop. There are two grey porta cabins located directly in front the western elevation of the steel portal framed building which contain an office, meeting room and a WC.

### **Relevant history:**

**128059** - Agricultural Determination to erect farm tractor shed. The proposed agricultural storage building was deemed to be permitted development (prior approval not required) on the 14/12/2011.

**132395** - Agricultural determination to erect extension to an existing tractor shed. Prior Approval not required 23/02/2015.

**136092** - Agricultural determination to erect farm tractor shed extension. Planning Permission Required 18/05/2017.

**137872** – Full planning application for erection of detached office unit, with one bedroom unit at first floor to provide onsite security deterrent. Withdrawn 10/08/2018.

Councillors may also wish to be aware of a similar proposal currently to be determined approximately 158 metres to the south east of this site:

**138182** – Full planning application for change of use of land from agricultural to a builders yard (P and M Pavers (Lincoln) Ltd", 3 Southmoor Road, Newton-on-Trent, Lincoln).

### **Representations:**

**Ward member Cllr S F Kinch:** RSM Contractors have been running since 2002, they started in business primarily as an agricultural contractor farming other people's land and in 2013 formed as RSM Maintenance. This is very common these days because smaller farms just can't keep up with the costs of modern farm equipment. The business has done well employing 15 full time and 7 part time staff mainly from the local area. Like many farmers and agricultural contractors they have had to diversify into other areas, this has worked well for RSM as it doesn't interfere with the seasonal work of farming and allows them to keep busy delivering a good service to the local authorities in Lincolnshire.

**Newton on Trent Parish Council:** Supports the application. My Council supports this application, however there was concern that access to the A1 133 should be avoided, as this would encourage other properties along the A1 133 to make application to do the same.

The volume of traffic from this development alone could have implications for the safe movement of vehicles along this stretch of the A1133, which has, at present, a 60-mph speed limit.

### **Local residents/Other Representations:**

#### Chandlers (Farm Equipment) Ltd, Belton, Grantham

RSM Maintenance Ltd is a professional business primarily carrying out the maintenance of road side verges. The business has grown over the past 15 years from its origins as a small agricultural contracting business. The nature of the business has evolved from being exclusively agricultural carrying out baling contracting employing 2 people to its current successful state employing a large team of operators using the latest modern equipment to carry out municipal work. It is essential for the future success of the business that they are allowed to continue to operate from the premises detailed in this planning application.

#### Manor Farm, Skellingthorpe, Lincoln

We are Farmers and Contractors and have worked with Robert Minnitt since 2002 when he first started working in agriculture , since then his company has grown and in recent years he has diversified in Ground Maintenance as well as staying in Agriculture and now employs 15 full time staff , I believe he has done this to try and keep an all year round employment for these staff as Agriculture is so seasonal and dependant on the recent erratic weather patterns , RSM's ability to help us over our busy / seasonal periods with both Labour and Machinery is crucial to us being able to conduct our business.

#### 12 School Lane, North Scarle, Lincoln

I grew up in Newton and am a previous employee of the business. A number of my good friends are still employed by it. I strongly support this application which will allow the business to diversify and continue employing people from the surrounding villages.

#### Cobthorne, Lincoln Lane, Newton on Trent

Having grown up in Newton on Trent I believe that RSM Maintenance is a valuable business which not only serves Lincolnshire County but also helps to employ local people who are integral to our community. It is very important businesses are able to diversify in order to survive and provide; I therefore fully support this application and hope the buildings and site are granted 'commercial' status.

#### C Arden, Newton on Trent

I fully support this application as it will secure and protect these rural jobs. It will also hopefully strengthen the company so it can win more contracts and employ more people in the area. Whilst providing a much needed service to the county making our roads safer.

Supporting petition from 10 employees received.

**LCC Highways and Lead Local Flood Authority:** Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

**LCC Minerals and Waste:** No representations received to date.

**Environment Agency:** We have no objections to the proposed development as submitted.

**Economic Development:** In principle and subject to normal planning considerations, the Growth and Projects Team are supportive of this planning application. RSM Maintenance are a well-established employer in the district providing agricultural services and more recently the company has diversified to offer highway maintenance services. Their customer base extends across Lincolnshire and Nottinghamshire as well as into Derbyshire and Yorkshire working predominantly with Council organisations on highway contracts.

Options for alternative accommodation within the West Lindsey district is limited, so consent to allow the continued operation of RSM Maintenance from their existing site will safeguard existing local jobs (currently 12 ft. and 5 pt.) and provide a sustainable location for the company's future operation and growth. The growth team are supportive of the economic benefits of this application.

**Trent Valley IDB:** The board maintained Newton Sewer an open watercourse exists along the boundary of the site. The boards consent is required to erect any building or structure (including walls and fences) whether temporary or permanent, or plant any tree, shrub, willow or other similar growth within 9 metres of the top edge of the watercourse. Consent is also required for any works whether temporary or permanent in over or under the watercourse and for any works that increase the flow or volume of water to the watercourse. Surface water run-off rates must not be increased to the watercourse from the proposed development.

**IDOX:** Checked 29/11/2018

### **Relevant Planning Policies:**

#### Central Lincolnshire Local Plan (2017)

The CLLP was formally adopted on 24th April 2017, and now forms part of the Development Plan. The following policies are considered to be most relevant:

- LP1: A presumption in favour of sustainable development
- LP5: Delivering Prosperity and Jobs
- LP13: Accessibility and Transport
- LP14: Managing Water Resources and Flood Risk
- LP17: Landscape, Townscape and Views

LP26: Design and Amenity  
LP55: Development in the Countryside

The CLLP is available to view here: <https://www.n-kesteven.gov.uk/centrallincolnshire/local-plan/>

### Neighbourhood Plan

No plan currently being prepared.

### Lincolnshire Minerals and Waste Local Plan (2017)

The site is within a Sand and Gravel Minerals Safeguarding Area. Policy M11 applies.

<https://www.lincolnshire.gov.uk/residents/environment-and-planning/planningand-development/minerals-and-waste-local-plan/88170.article>

### National Policy:

#### National Planning Policy Framework 2018 (NPPF)

Paragraph 213 states that “*existing [development plan] policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).*”

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/740441/National\\_Planning\\_Policy\\_Framework\\_web\\_accessible\\_version.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/740441/National_Planning_Policy_Framework_web_accessible_version.pdf)

#### **Planning Practice Guidance**

<https://www.gov.uk/government/collections/planning-practice-guidance>

#### **Main issues**

- Principle of Development
- Economic Development
- Residential Amenity
- Visual Amenity
- Flood Risk
- Minerals Safeguarding
- Other Matters

#### **Assessment:**

##### Principle of Development

The Government permits certain types of development without the requirement of the Local Planning Authority’s permission (‘permitted development’). This includes, subject to certain limitations and conditions, “*The carrying out on agricultural land comprised in an agricultural unit... works for the erection... of a building which are reasonably necessary for the purposes of agriculture within that unit.*”

The steel portal framed building to be found on the site was deemed to be permitted development under an agricultural determination application (128059) granted in December 2011. It replaced a damaged structure that has no planning history. The application form, completed by the same applicant as this present application, stated that the new building will be used for the storage of farm tractors. Subsequent applications (132395 and 136092) to extend the agricultural building were also submitted by the same applicant.

RSM Maintenance Ltd state on their website that they are one of the UK's largest road side grass cutting contractors. The website goes on to state that 'our main customers have always been Highways, Commercial and Local Councils'. 'Our services include, but are not limited to, roadside verge flailing as well as hedge-cutting, weed control, gritting and snow clearance, roadside furniture maintenance and cleaning, and all de-vegetation works.'

In August 2018 an application (137872) submitted by the same applicant was withdrawn when the present commercial use (RSM Maintenance Ltd) of the agricultural building and land was brought to light.

This proposal seeks to change the use of the existing steel portal framed agricultural building/porta cabins and the adjoining land to facilitate the above commercial operation.

Policy LP5 of the CLLP states that "The Central Lincolnshire authorities will, in principle, support proposals which assist in the delivery of economic prosperity and job growth to the area." The application site does not fall within an allocated employment use area.

Under Other Employment Proposals it states that other employment uses not covered by Strategic Employment Sites (SES), Employment provision within Sustainable Urban Extensions (ESUEs), Important Established Employment Areas (EEA) and Local Employment Sites (LES) categories will be supported provided:

- There is clear demonstration that there are no suitable or appropriate sites or buildings within the allocated sites or within the built up area of the existing settlement;
- The scale of the proposal is commensurate with the scale and character of the existing settlement;
- There is no significant adverse impact on the character and appearance of the area, and/or the amenity of neighbouring occupiers;
- There are no significant adverse impacts on the viability of delivering any allocated employment site; and
- The proposal maximise opportunities for modal shift away from the private car

The site is located outside of the existing settlement in the countryside.

The applicant's supporting statement does not address policy LP5 or set out any explanation or operational requirements that would prevent the business from being located onto a nearby employment site.

It is considered that there are more suitable, alternative sites for this type of development. The site is approximately 4 miles from 3 business parks at Saxilby; Saxilby Enterprise Park, Riverside Enterprise Park and Allens Business Park which are either allocated under the CLPP (E22 Allocation in connection with Policy LP5) for B1, B2 and B8 uses or in the Saxilby Neighbourhood Plan (Site 1, 2 and 3 of Proposal Map 3 in connection with Policy 7 of the Plan) for such uses. Both Policy LP5 of the CLLP and Policy 7 of the Saxilby Neighbourhood Plan allow for appropriate new B1/B2/B8 employment developments and/or redevelopment of sites for B1/B2/B8 uses. However, a search conducted by the Economic Development Team on the 29/11/2018 found no available accommodation within West Lindsey that will currently accommodate the 695 sq metre (approximately 7,500 sq. ft.) buildings on this site and surrounding land currently being utilised. The only site that will be available in the near future is Enterprise West Lindsey Phase 1 (Riverside Enterprise Park) which totals around 8.1 hectares (20 acres) which can accommodate buildings of up to 2,787 sq. metres (30,000 sf ft.).

Saxilby Industrial Area (described above) is in close proximity to one of the district's larger villages, Saxilby and close to rail and bus public transport links. These business parks offer a range of business sizes and uses (B1, B2 and B8).

No evidence has been provided to demonstrate that sites within the Saxilby Industrial Area are inappropriate and/or unsuitable, or that there is a particular locational requirement for the present commercial operation to operate at the application site; albeit it is operating out of a building only permitted as an agricultural building and not for commercial uses.

It is accepted that West Lindsey is a rural district and there is a heavier reliance on the private car to access services and facilities. However, with only one of the ten employees who have signed the petition living in Newton on Trent there would be more opportunities for alternative modes of transport to be used from the allocated business parks. Newton on Trent have limited bus services to surrounding large population centres such as Gainsborough and Lincoln and therefore due to the location of the site, within the countryside, there would be a heavy reliance on the use of the private car.

Part E of policy LP55 states that proposals for non-residential developments will be supported provided that:

- a) The rural location of the enterprise is justifiable to maintain or enhance the rural economy or the location is justified by means of proximity to existing established businesses or natural features;
- b) The location of the enterprise is suitable in terms of accessibility;
- c) The location of the enterprise would not result in conflict with neighbouring uses; and

d) The development is of a size and scale commensurate with the proposed use and with the rural character of the location.

Similar to residential development, non-residential development within rural areas must be sustainable and respectful to its setting. Only commercial enterprises which can be justified to maintain and enhance the rural economy (for example, establishment of a farm shop) will be supported providing all other relevant criteria are met. It is considered that this proposal is located in an unsustainable location and would be better accommodated on the Saxilby Industrial Area (described above) which is in close proximity to one of the districts larger villages, Saxilby and close to rail and bus public transport links.

Therefore, it is considered that this proposal does not accord with policies LP1, LP5 and LP55 of the Central Lincolnshire Local Plan and would be better located on an existing / allocated employment site, of which there are sites approximately four miles from the application site.

However, as the applicant is an employer currently operating from within the premises, it is recommended to grant permission on a temporary 12 months basis (subject to other considerations explored below) to allow the commercial operation the opportunity to re-locate to a more suitable employment site.

#### Economic Development

The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas. The NPPF also supports economic growth in order to create jobs. The proposal supports 12 full time and 5 part time employees and is supported by West Lindsey District Council's Economic Development Section as well as the Ward Councillor.

It is therefore considered that this proposal is finely balanced with the proposal considered to be in an unsustainable location contrary to Policy LP1, LP5 and LP55 of the Central Lincolnshire Local Plan balanced against the fact that the commercial operation provides 12 full time and 5 part time jobs and has been operating out of the present steel portal framed agricultural building on the site for around six years since application 128059 was granted on the 14/12/2011.

However, as there are likely to be available alternative accommodation/employment sites to accommodate this proposal it is recommended to grant permission on a temporary 12 months basis (subject to other considerations explored below) to allow the commercial operation to re-locate to a more suitable site.

#### Visual amenity

Local Plan Policy LP26 states that all development proposals must take into consideration the character and local distinctiveness of the area (and enhance or reinforce it, as appropriate) and create a sense of place. As such, and where applicable, proposals will be required to demonstrate, to a degree proportionate to the proposal, that they are well designed in relation to siting, height, scale, massing and form. The policy also states that the proposal



should respect the existing topography, landscape character, street scene and local distinctiveness of the surrounding area and should use appropriate, high quality materials which reinforce or enhance local distinctiveness. Any important local view into, out of or through the site should not be harmed.

The application is for the change of use of an existing building and adjoining land to a commercial use. The site is located in the countryside to the east of the A1133 and to the east of the built footprint of Newton on Trent. The site has screening in the form of a hedgerow and trees on its western boundary and hedgerows on its eastern and northern boundaries with there being a hedgerow further to the south fronting the A57. It is therefore felt that the proposal will not have an adverse visual impact on this countryside location. However, the good screening that the site currently enjoys could be removed at a future date and also the red line (please see other matters below) for this proposal is for a much larger area than the steel portal framed building located towards the north eastern corner of the site and the area immediately to the south which were the only areas of the site which were being utilised at the time of the officer site visit on the 23 October 2018.

#### Residential Amenity

Local Plan Policy LP26 states that planning permission will be granted for new development provided the proposal will not adversely affect the residential amenity of neighbouring properties by virtue of overlooking, overshadowing, loss of light or over dominance.

The nearest dwelling (The Croft) is located approximately 56 metres to the North West of the site entrance on the other side of the A1133. The dwelling is located approximately 132 metres from the steel portal framed building on the site. The site also has good screening on all its boundaries and a boundary further to the south of the site which fronts the A57. It is therefore considered that the proposal will not have a harmful impact on the living conditions of neighbouring dwellings.

#### Flood Risk

The application is for the change of use of an existing building and adjoining land to a commercial use. Such a use is considered to be a less vulnerable use in the flood risk vulnerability classification table contained in National Planning Policy Guidance (Paragraph: 066 Reference ID: 7-066-20140306).

Paragraph 164 of the NPPF states that application for 'changes of use should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments.

The Planning Statement (October 2018) which forms part of the supporting documentation for this application contains a flood risk statement in section 6 of the report; which states the following justification for the proposal:

- The existing commercial business is not at significant risk and will not increase flood risk to others. It has operated as such for 28 years.

- Although in Flood Zone 3 the site is protected from flooding from the River Trent by defences, including a raised defence.
- It is an established business on site and the building is long established in its current location. Any other location (off site) for the building would not meet RSM's needs. Relocation on site is not feasible nor necessary. It would have no beneficial impact on flood risk.
- Commercial establishments are less vulnerable to flood risk and no relocation on site would result in the existing building being in Flood Zone 1.

The Environment Agency raises no objections to the application. Therefore it is considered that the proposal complies with Policy LP14 of the CLLP.

#### Minerals Safeguarding

The application site is within a Mineral Safeguarding Area (MSA). Policy M11 of the Core Strategy & Development Management policies (CSDMP 2016) therefore applies. This application is for the change of use of an existing building and adjoining land to a commercial use therefore it is considered that the proposed development will have a negligible impact with respect to sterilising the mineral resource. Lincolnshire County Council Mineral and Waste have not objected to this application.

#### **Other Matters**

##### Curtilage

At the time of the officer site visit (23/10/2018) just the area immediately to the south of the steel portal framed building (and a smaller area to the west) was being utilised for parking and the storage of materials. This is also the case in a photograph in Appendix 1 (dated 2018) of the submitted planning statement (dated October 2018). An amended red line around the access to the site, the steel portal framed building and land immediately to the south (and smaller areas of land to the west and the east of the building) was sought from the applicant. This request was rejected with the applicant wishing the red line to go around the whole of the site (including areas of grass) apart from an area to the south of the access track which has been taken out of the redline as originally submitted. The agent for the application stated in an email received on the 12/11/2018 that the 'land to the north of the access is and has been used for the storage of vehicles, trailers etc. for many years.'

#### **Conclusion**

The decision has been considered against Policy LP1: A presumption in favour of sustainable development, LP5: Delivering Prosperity and Jobs, LP13: Accessibility and Transport, LP14: Managing Water Resources and Flood Risk, LP17: Landscape, Townscape and Views, LP26: Design and Amenity and LP55: Development in the Countryside of the adopted Central Lincolnshire Local Plan and guidance contained within the National Planning Policy Framework (2018) and Planning Practice Guidance.

In light of this assessment it is considered that the proposal which is located in the countryside to the east of Newton on Trent which has limited public

transport links to surrounding population centres such as Gainsborough and Lincoln would place a heavy reliance on the use of the private car for employees. The proposal would be better accommodated in a more sustainable location such as on the Saxilby Industrial Area (Saxilby Enterprise Park, Riverside Enterprise Park and Allens Business Park) approximately four miles from the site which is in close proximity to one of the districts larger villages, Saxilby and close to rail and bus public transport links.

The NPPF supports the sustainable growth and expansion of all types of business and enterprise in rural areas. The NPPF also supports economic growth in order to create jobs. The proposal is finely balanced as it is located in an otherwise unsustainable countryside location contrary to Policy LP1, LP5 and LP55 of the Central Lincolnshire Local Plan balanced against the fact that the commercial operation provides 12 full time and 5 part time jobs and has been operating out of the present steel portal framed agricultural building on the site for around six years since the prior approval of the local authority was given for an agricultural building in 2011 (128059).

However, as there are likely to be available alternative accommodation/employment sites to accommodate this proposal it is recommended to grant permission on a temporary 12 months basis (subject to other considerations explored below) to allow the commercial operation to re-locate to a more suitable site.

**Recommendation:** That planning permission is granted for a temporary period of 12 months subject to the following conditions:

1. The use of the agricultural building for commercial purposes is hereby permitted for a period of 12 months from the date of this decision. Thereafter the use of the building shall revert to its previous use.

**Reason:** In order to give this commercial operation time to be relocated to a more suitable and sustainable site in accordance with the NPPF and Policy LP1, LP2 and LP55 of the Central Lincolnshire Local Plan,

2. With the exception of the detailed matters referred to by the conditions of this consent, the development hereby approved shall be carried out in accordance with the following drawings: 1469M/101 Rev A dated 9/11/2018 and 1469M/102 Rev B dated 12/11/2018. The works shall be carried out in accordance with the details shown on the approved plans and in any other approved documents forming part of the application.

**Reason:** To ensure the development proceeds in accordance with the approved plans and to accord with the National Planning Policy Framework.

**Human Rights Implications:**

The above objections, considerations and resulting recommendation have had regard to Article 8 and Article 1 of the First Protocol of the European Convention for Human Rights Act 1998. The recommendation will not

interfere with the applicant's and/or objector's right to respect for his private and family life, his home and his correspondence.

**Legal Implications:**

Although all planning decisions have the ability to be legally challenged it is considered there are no specific legal implications arising from this report.