

<b>APPLICATION NO</b>	<b>PA/2013/0156</b>
<b>APPLICANT</b>	T C Brears & Sons
<b>DEVELOPMENT</b>	Application for a lawful development certificate for the storage and distribution/transportation of a maximum of 3000 tonnes per annum of hay and straw
<b>LOCATION</b>	Part of OS field 2400, Godnow Road, Crowle
<b>PARISH</b>	<b>CROWLE</b>
<b>WARD</b>	Axholme North
<b>CASE OFFICER</b>	Mark Simmonds
<b>SUMMARY RECOMMENDATION</b>	<b>Subject to the completion of a unilateral undertaking, grant a Certificate of Lawful Use</b>
<b>REASONS FOR REFERENCE TO COMMITTEE</b>	Member 'call in' (Councillor Barker – significant public interest)

## **POLICIES**

The application requires a legal decision which planning policy is not relevant to.

## **CROWLE TOWN COUNCIL**

Object:

- (1) recreational playing field next to proposed site
- (2) the road is unsuitable
- (3) the site has a planning condition that only own grown produce is to be stored
- (4) devalue all surrounding properties.

## **PUBLICITY**

The application has been publicised through letters sent to neighbouring properties and by way of site notice.

Objections have been received raising the following issues:

- shocked and appalled at the idea of 3000 tonnes of straw being transported along the road
- the very poor state of the road
- community centre and skate park

- lorries not sticking to the speed limit
- makes a mess of the whole of Crowle as loads are not sheeted
- the condition of the road is under investigation by North Lincolnshire Council
- the buildings have a storage capacity in excess of the application
- are there going to be restrictions on the times of day the lorries can travel?
- is there any monitoring?
- T C Brears move much more than the stated 2-3000 tonnes of straw
- will the quantities they move be monitored or documented?
- the application minimises the activities on the site
- the skateboard park and football pitches preclude the granting of a certificate
- completely unsuitable place for storage of straw
- pollution from the movement of lorries
- trucks come and go at all hours
- North Lincolnshire Council can refuse this application because the previous Head of Planning repeatedly told the applicant they could not use the site for commercial activities
- the road is too narrow and of insufficient strength
- should advise the planning committee to seek counsel's advice
- objector unhappy about the amount of time allowed to gather information.

One letter stating no objections has also been received.

## **ASSESSMENT**

This application seeks a certificate of lawful use (CLU) relating to the use of field 2400 for the storage of up to 3000 tonnes of straw produce a year. This application was deferred at the last Planning Committee as Members had concerns which they felt should be resolved. These issues related to straw debris littering Godnow Road.

**The only factor in the determination of this application is whether the evidence produced by the applicant proves on the balance of probability that the use alleged has been carried out for a continuous period of 10 years, and whether any substantive evidence has been produced to refute the application.**

The application site (field 2400 at Godnow Road, Crowle) has, for a number of years, been used for the storage of straw produce. The site has had permission for several barns for the storage of straw.

Whilst there are several buildings on the site, they have predominantly been built in the wrong location and are not subject to any conditions. Whilst one building is in the correct position and has a condition which says that only produce from the applicant's own holding can be stored there, this does not alter the fact that the site, as a whole, has been used for the commercial storage of hay/straw, for a continuous period of over 10 years.

Following investigations by the Development Management and Enforcement teams it has been concluded that the use of the site is not agricultural but is in fact commercial. This is because a large proportion of the straw stored on the site is taken from other farm holdings not farmed by the applicant. On this basis a planning permission for change of use of the land is required. However, during discussions with the agent it became apparent that the use has been carried on since 1998. Therefore, under current planning legislation, the applicants were entitled to apply for a Certificate of Lawful Use. Under the provisions of the Planning Act, if a use has continued without interruption for a period of 10 years, without formal enforcement action being taken, then it becomes 'lawful', the use can be carried on in the form in which it became lawful and the council can take no enforcement action.

In this case 23 documents have been submitted. The vast majority are affidavits swearing that the use has been carried on, subject to seasonal fluctuations, since July 1998. This means that the use applied for has been lawful since July 2008 – fifteen years in total and already lawful five years ago.

The paperwork has been assessed by the planning officer and by the council's legal team and the case is considered proved beyond reasonable doubt. There has been no contrary evidence submitted to weigh against this decision. Whilst matters relating to amenity and road safety have been raised, these are not relevant to this decision. The case has been proved legally and therefore a Certificate of Lawful use should be issued.

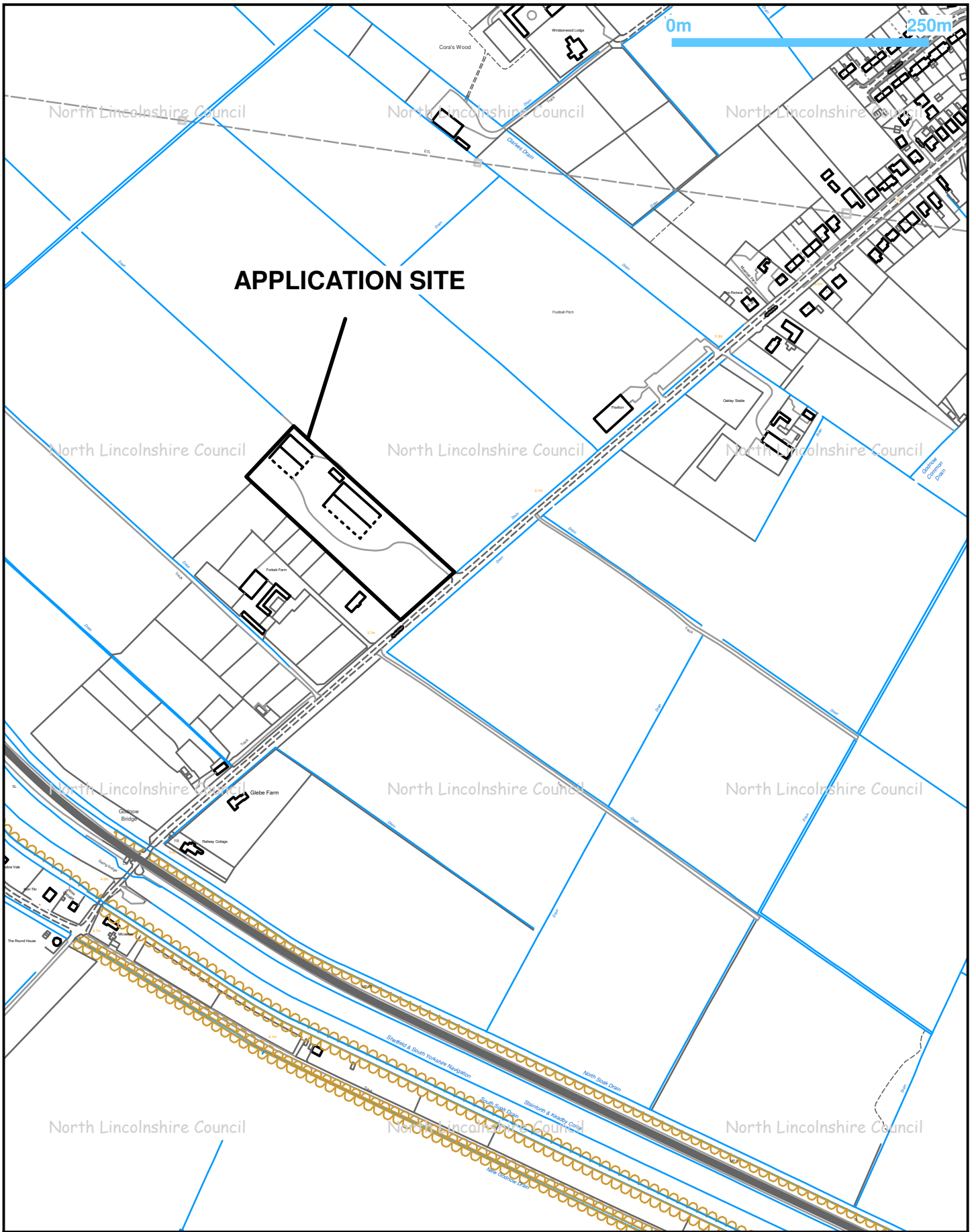
With regard to Members' concerns about straw litter, the agent has agreed in principle that a unilateral undertaking will be submitted with an agreement that the developer will carry out cleaning of Godnow Road to the council's satisfaction. It is considered that, once this agreement is signed, the certificate should be granted.



## **RECOMMENDATION**

**Subject to the completion of a unilateral undertaking providing for street cleaning, the committee resolves:**

- (i) it is mindful to grant a certificate of lawful use for the development;**
- (ii) the decision be delegated to the Head of Development Management upon completion of the unilateral undertaking;**
- (iii) if the unilateral undertaking is not completed by 5 December 2013 the Head of Development Management shall re-present the application to the Planning Committee for further resolution;**
- (iv) the certificate be granted for the following reason:**

The council, as local planning authority, has had regard to the evidence submitted in support of the application and considers that the lawfulness of the use has been proved for the use of the site for the storage of a maximum of 3000 tonnes of straw per annum.



Title: PA/2013/0156			
Drawn by: Sue Barden	Date: 21/05/2013	Scale: 1:5000	
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