

## **DEVELOPMENT COMMITTEE**

**1<sup>st</sup> JULY 2010**

### **REPORT OF HEAD OF REGULATORY SERVICES**

#### **DEVELOPMENT OF ABATTOIR, SIX HILLS LANE, OLD DALBY. PLANNING PERMISSION 09/00527/FUL**

#### **1. PURPOSE OF THE REPORT**

- 1.1 To inform the Committee of the unauthorised development that has been carried out and the potential courses of action.

#### **2. RECOMMENDATION**

- 2.1 **That the report is noted and the site and location plans as detailed in the report are agreed as the approved plans from which the development should be constructed.**

#### **3. BACKGROUND**

- 3.1 Planning permission was granted on 5<sup>th</sup> October 2009, 09/00527/FUL for the construction of an abattoir off Six Hills Lane, Old Dalby, subject to conditions.
- 3.2 Officers became aware that works were starting on site prior to the formal discharge of the conditions, although the details had been submitted. The site was inspected and it was discovered that works had started on site, in that the foundation pads had been dug. It was subsequently confirmed that they were being excavated in the wrong position.
- 3.3 The developer was advised and they ceased works pending the outcome of investigations into what had gone wrong and how the development could be regularised.
- 3.4 Further investigation also revealed that whilst the building was being constructed in the wrong position, the drawings that had been submitted with the application conflicted with each other, the site and location plans indicating one position, the section drawing indicating an alternative position.
- 3.4 The developer and their agent have confirmed that the drawing that they are meant to be building from is the site plan, not to the dimensions that were shown on the section drawing. They advise that the section drawing

was submitted incorrectly and this has further led to the issues that they now find themselves with.

#### **4 KEY ISSUES.**

##### **4.1 The issues are:**

- The foundations, apart from one corner pad, have been constructed in the wrong position.
- The section drawing indicates that the building is being constructed in a position between 14 and 15 metres closer to the road.
- The site plan, which is not dimensioned, indicates that one corner of the building is in the correct location, although the building being constructed is orientated incorrectly and the opposing corner is 11.7 metres closer to the roadway than shown.
- The approved 1:500 site plan and 1:1250 location plan (and subsequent plans submitted in discharge of conditions and the current revised planning application being currently considered) show the building in one position, whereas the section shows the building further back into the site.
- Deciding which plan is the one from which the building should be constructed.

##### **4.2 Lawfulness of development**

The current commencement of the development is unlawful in planning terms as it is not in line with the current extant planning permission, being in the wrong position no matter which plan is taken as the approved plan from which to construct.

##### **4.3 Enforcement Action**

The development is unauthorised and the developer has been advised that the continuation of the development in the position that it is being constructed would be likely to result in the service of a Temporary Stop Notice, which would require the immediate cessation of further works, and a subsequent enforcement notice requesting the removal of the unauthorised works as carried out.

##### **4.4 Approved Development**

The main issue that needs to be considered is what the developer has permission for and which drawing to construct the building to. If the building were to be constructed in accordance with the dimensioned section drawing, the building would be substantially further into the site

than shown on the site and location plans, approximately 9 metres. This would mean taking a substantially larger amount of the field into the site.

The conditions attached to the permission have been subsequently discharged and an application has been submitted to release the developer from complying with the condition requiring the provision of an approval for the re-alignment of the footpath across the site. An application has been submitted to Leicestershire County Council for the re-alignment of the footpath, to the position to which it now exists.

## **5. CONSIDERATION**

- 5.1 The approved drawings conflict with each other, resulting in a problem determining where the building should be constructed to comply with the planning permission.
- 5.2 The developer has advised that when Councillors visited the site, the front of the building had been marked out on site. This position is different to the site plan and the section drawing.
- 5.3 An amended site plan drawing has since been submitted, attached as appendix 1, which details the dimensions that the building should be built off the back edge of the adjacent highway. These measurements have been checked on site and whilst the front corner of the building closest to the AA Training Centre is correct, the opposing corner is 11.7 metres closer to the adjacent highway. Officers have since met with the developer and their agents to agree the 'correct' position of this corner and this has been staked out on site.
- 5.4 If the building is re-orientated to be constructed in the position as per the approved site and location plans, rather than the section drawing, the building and the surrounding site would result in a smaller area of open countryside land being developed. This would also allow for the access, parking and manoeuvring areas to be completed as per the approved plans.

## **6. CONCLUSION**

- 6.1 That the 'incorrectly submitted' section drawing should be disregarded as showing incorrect information and the site and location plans should be accepted as the approved drawings from which the building should be constructed, also bearing in mind the subsequently submitted plans and drawings following the grant of planning permission which correlate to these plans.

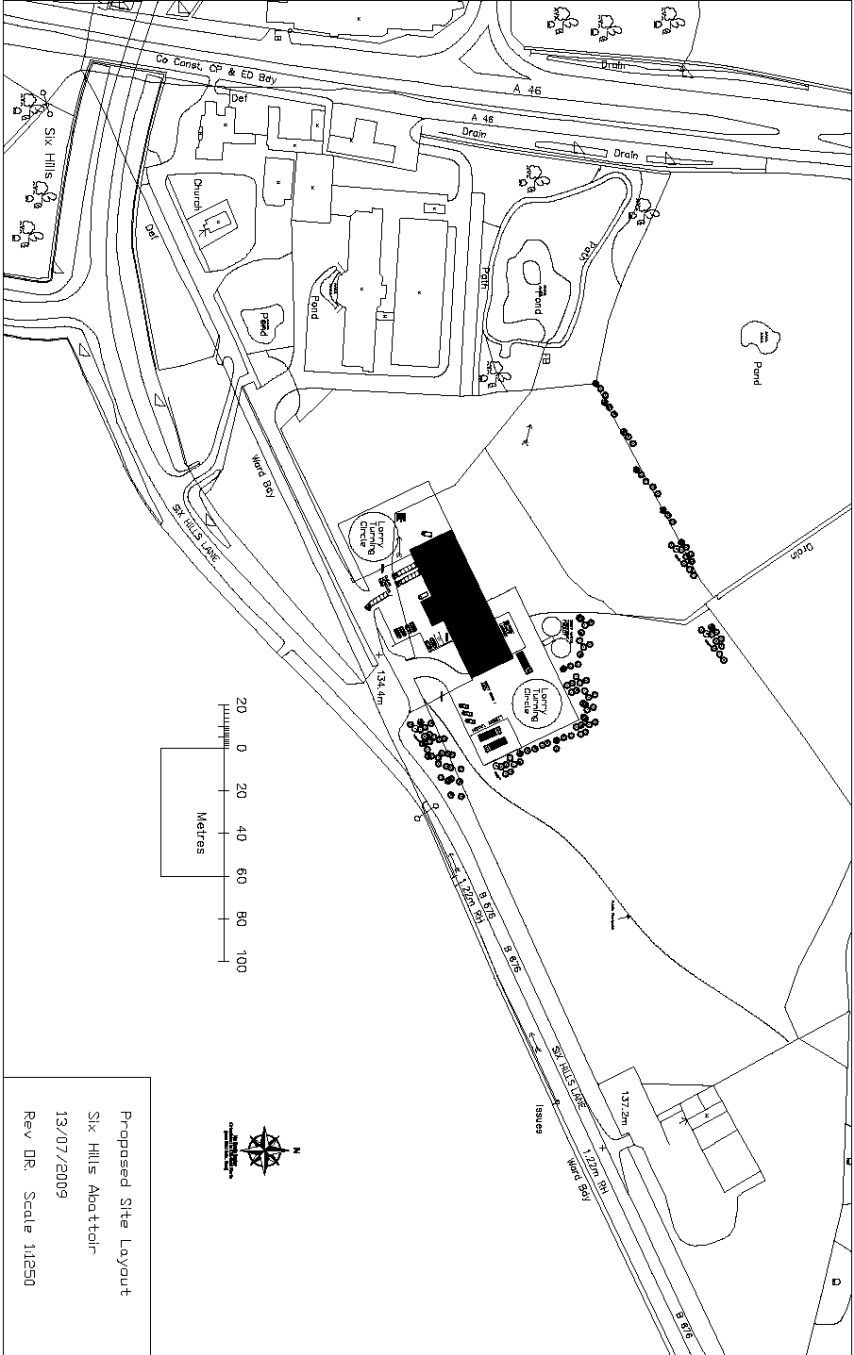
- 6.2 If Councillors accept this conclusion, the developer can continue on site immediately, but they will be required to excavate new foundations to align the building in the correct position as has been discussed and agreed on site with Officers.
- 6.3 If Councillors are minded to accept the 'section drawing' as the one from which the development should be constructed, the development will enclose further land within the open countryside and further works to the site will be required to be carried out.
- 6.4 Alternatively, Councillors may decide that the application that has been approved is void owing to these inaccuracies and require the submission of a fresh, correct, application complete with the correct drawings and details.

Background Documents:

Planning Applications 09/00527/FUL, 10/00173/DIS and 10/00375/FUL

Contact Officer:

Mr A Dudley, Enforcement Officer



Proposed Site Layout  
 Six Hills Abattoir  
 13/07/2009  
 Rev DR Scale 1:1250