DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H05-0474-21**	**Applicant:**	**Mr G Franklin**
Proposal:	Proposed extension to existing agricultural produce store.		
Location:	Mill House Farm Roman Bank Fleet		
Terminal Date:	2nd July 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2019

The Town and Country Planning (General Permitted Development) (England) Order, 2015.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	1	0	0	0
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	1	0	0	0
RESIDENTS	0	0	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

The application is for a Lawful Development Certificate to determine whether the proposed

extension to an existing agricultural produce store is "permitted development" and therefore does not require planning permission.

It is solely a legal determination. Consequently, planning policy and matters such as visual impact, amenity, highway safety, etc are not relevant to the determination as to whether the proposed building is indeed lawful.

SITE DESCRIPTION

The site is part of existing premises currently used for the storage of potatoes. Vehicular access is off Roman Bank. Part of it was formerly occupied by redundant glasshouses, which were demolished in 2018.

Mill House (grade II listed) is situated to the south fronting onto Roman Bank, including outbuildings/stables at the side and rear of the property. A house (Mill House Farm) is located immediately opposite. A bungalow (Mill Lodge) is situated some 100 metres to the west. Smiths Farm is approximately 300 metres to the east.

PLANNING HISTORY

EE068-67 - General purpose agricultural building - Granted March 1967.

EE232-68 - Range of glasshouses - Granted July 1968.

H05-0694-76 - Cold store - Granted July 1976.

H05-0859-76 - Extension to glasshouse - Granted September 1976.

H05-0639-84 - Proposed replacement glasshouse for horticultural growing - Granted June 1984.

H05-0928-86 - Proposed erection of glasshouse - Granted October 1986.

H05-0169-87 - Steel drying building - Granted 1987.

H05-0398-98 - Agricultural Determination - Erect steel frame building extension, clad in box profile (Mr R Ellis) - Approved 28 May 1998.

H05-0472-01 - Erect agricultural store (J Ellis (Bulb & Flower Grower)) - Granted 20 June 2001.

H05-0382-02 - Agricultural store and canopy (J Ellis & Co) - Granted 7 June 2002.

H05-0868-02 - C/C - Details and position of plant/equipment (condition 3 of H05/0382/02) - Approved 12 February 2003.

H05-0851-20 - Full - Erection of building for storage of agricultural produce and/or agricultural machinery - Withdrawn 26 February 2021

H05-0063-21 - S191 LUC - Use of site for storage of agricultural produce - Approved 15 March 2021.

REPRESENTATIONS

Fleet Parish Council

Object. Commercial as opposed to agricultural. Old farm buildings replaced with modern buildings more in keeping with a commercial venture. Not in keeping with Mill House, which is grade II listed. Better sites elsewhere on the premises; Noise/disturbance; Odour; Light pollution; Coming and going of vehicles.

South Holland Internal Drainage Board

If a surface water discharge is proposed to a watercourse, then the proposed development will require land drainage consent in line with the Board's byelaws (specifically byelaw 3).

LCC Archaeology

No archaeological impact.

The Rt. Hon. Sir John Hayes CBE MP

Object. I was concerned to learn that the extension will be located as close to the boundary with Mill House, which is a Grade II Listed Building, as permission allows. I share concerns that the siting of this extension will have a detrimental impact on the amenity and character of Mill House, dominating the landscape.

Furthermore, the proposal could increase noise and disturbance for the residents of Mill House, who will also see the loss of enjoyment of their garden and outlook. Surely, the proposed extension could be sited elsewhere on the site away from Mill House.

Public

Objection received (summarised):
Ask Planning Department to check all criteria relevant for permitted development; Not an extension but rather a completely new building; Contrary to planning policy; Unacceptable visual impact; Harm setting and amenity of Mill House (grade II listed); Noise/disturbance; Odour; On site of glasshouses that were only recently demolished and were agricultural - change of use therefore; Better locations elsewhere on the site that would have less of an impact upon Mill House.

PLANNING CONSIDERATIONS

The site is part of premises that have a lawful use for the storage of agricultural produce (ref. H05-0063-21). This is classified as a storage, as opposed to agricultural, use. The proposal should therefore be assessed against Class H (Extensions, etc of Industrial and Warehouse) of Part 7 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order, 2015.

Class H states that the erection, extension or alteration of an industrial building or a warehouse is "permitted development" and as such does not require planning permission. This is subject to compliance with specific criteria, which are outlined and addressed in full below:

Development is not permitted by Class H if:

(a) the gross floor space of any new building erected would exceed:

(i) for a building on article 2(3) land or on a site of special scientific interest, 100 square metres - this is not applicable because the proposal is an extension and is not on article 2(3) land.

(ii) in any other case, would exceed 200 square metres - this is not applicable because the proposal is an extension. Part (b) below therefore applies.

(b) the gross floor space of the original building would be exceeded by more than:

(i) in respect of an original building or a development on article 2(3) land, 10% or 500 square metres (whichever is lesser) - this is not applicable because the proposal is not on article 2(3) land, which is National Parks, areas of outstanding natural beauty and conservation areas, etc.

(ii) in respect of an original building or a development on a site of special scientific interest, 25% or 1,000 square metres (whichever is the lesser) - this is not applicable because the proposal is not on a site of special scientific interest.

(iii) in any other case, 50% or 1,000 square metres (whichever is the lesser) - the extension would have a floorspace of some 564 sqm and would be less than 50% of the existing produce storage buildings.

It should be noted that the interpretation of Class H states that where 2 or more original buildings are within the same curtilage and are used for the same undertaking, they are to be treated as a single original building in making any measurement. Also, no original building should have been erected at any time under Class H, which is the case in this instance.

(c) the height of any part of the new building erected would exceed:

(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres - this is not applicable because the proposal is an extension.

(ii) in all other cases, the height of the highest building within the curtilage of the premises or 15 metres, whichever is lower - this is not applicable because the proposal is an extension.

(d) the height of the building as extended or altered would exceed:

(i) if within 10 metres of a boundary of the curtilage of the premises, 5 metres - the proposal is not within 10 metres of the curtilage of the premises.

(ii) in all other cases, the height of the building being extended or altered - the proposal would have a height of some 10.1 metres and would not exceed the height of the building being extended.

(e) any part of the development would be within 5 metres of any boundary of the curtilage of the premises - the proposed development is not within 5 metres of any boundary.

(f) the development would lead to a reduction in the space available for the parking or turning of vehicles - the site of the proposed development is not currently used for operational parking or the turning of vehicles.

(g) the development would be within the curtilage of a listed building - Historic England Advice Note 10 (Listed Buildings and Curtilage) offers advice on curtilage buildings. It makes reference to farm buildings, which is of historical relevance in this case. It states that where there is a degree of physical separation and a distinction in terms of use it is likely to mean that the buildings are outside the curtilage of the listed building. This approach is consistent with the "Jews Farmhouse" case (R v Taunton Deane Borough Council, 2008).

Historically, the premises were a farmyard associated with Mill House, which is grade II listed. The date of the listing is believed to be June 1966. The house was subsequently sold separate from the yard in approximately 1973/4 and the latter continued to develop over the years, including new buildings and a change of use from agricultural to a use for the storage of agricultural produce, presently potatoes. A lawful development certificate has been granted for the latter (ref. H05-0063-21).

The premises are physically separate from Mill House and have been for a significant length of time. They also have a physical distinction in terms of use, being used for the storage of agricultural produce and not an ancillary domestic use. It is therefore considered that they are outside the curtilage of the listed building.

The proposal also satisfactorily complies with conditions referred to within Class H, which are outlined below:

(a)the development is within the curtilage of an existing industrial building or warehouse;
(b)any building as erected, extended or altered is only to be used -
(i)in the case of an industrial building, for the carrying out of an industrial process for the purposes of the undertaking, for research and development of products or processes, or the provision of employee facilities ancillary to the undertaking;
(ii)in the case of a warehouse, for storage or distribution for the purposes of the undertaking or the provision of employee facilities ancillary to the undertaking;
(c)no building as erected, extended or altered is used to provide employee facilities;
(i)between 7.00pm and 6.30am, for employees other than those present at the premises of the undertaking for the purpose of their employment; or
(ii)at all, if a quantity of a dangerous substance is present at the premises of the undertaking in a quantity equal to or exceeding the quantity listed in the entry for that substance in Parts 2 or 3 of Schedule 1 to the Control of Major Accident Hazards Regulations 1999(1);
(d)any new building erected is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the existing industrial building or warehouse; and
(e)any extension or alteration is, in the case of article 2(3) land, constructed using materials which have a similar external appearance to those used for the building being extended or altered.

PLANNING BALANCE & CONCLUSION

The proposal as applied for complies with the criteria outlined above. As such it constitutes permitted development and planning permission is not therefore required. It is therefore recommended that a lawful development certificate be granted.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

RECOMMENDATION

The application was referred to Chairman's Panel on 25 June 2021 where it was accepted the decision be delegated.