

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H05-0796-22 **Applicant:** Mr W Mills
Proposal: Erection of storage building - (part-retrospective)
Location: The Depot Langary Gate Road Gedney Hill
Terminal Date: 28th October 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
04 Approach to Flood Risk

National Guidance

National Planning Policy Framework 2021

Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
IAN MARSHMAN, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application seeking part-retrospective permission for a storage building measuring 9.9 metres (width) x 5.5 metres (depth) and standing at 4.1 metres in height (3 metres in height). The building would have a timber external finish.

The building would be used to store the applicant's personal belongings such as lawnmower, garden equipment, work cables, tools and refrigeration equipment.

Site Description

The application site is located on Langary Gate Road in Gedney Hill. It is located outside any defined settlement boundary and within the open countryside. The site is enclosed by a high boundary fence and a part built block building. A large drain is situated to the south-west and a bungalow (St Margaret's) to the south-east on the opposite side of Langary Gate Road.

History

H05-0855-19 - Conversion of existing building to Class C3 residential use, including extension - Refused/Appeal dismissed

H05-0467-98 - Demolish Council depot building and erect new dwelling house - Refused

Consultation Responses

South Holland Internal Drainage Board

The applicant proposes to discharge surface water to a watercourse therefore consent under Byelaw 3 is required. The proposed building would be within 9 metres of the Board maintained watercourse. The applicant has already approached the Board to make an application for consent under Byelaw 10, which has been granted.

Historic Environment Officer

No archaeological input required.

Planning Considerations

Principle of development

The site is located outside any defined settlement boundary and is regarded as open countryside.

Policy 1 of SELLP sets out the local spatial strategy from which new development should be preferably steered to the most sustainable locations. A settlement hierarchy has been defined to provide guidance to do so. Any location out of the defined boundaries for urban settlements is classed as countryside. This policy states that "in the countryside development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits".

The proposed building would be used solely for the applicants personal storage which is what the previous building was used for for at least the past 20 years. As such the use of the site is not considered to change.

Design and layout

Paragraph 130 of National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments are visually attractive as a result of good architecture and sympathetic to local character and history, including the surrounding built environment and landscape setting, among other considerations. Design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable as per Policy 2 of the SELLP.

The proposed building would be similar in appearance and size to the previously demolished building therefore the overall appearance of the area is not considered to significantly or unacceptably change. It is not clear how long the original building was in situ, however, google

images show a building of similar appearance and size to the one proposed back in 2011 and planning history shows the building in this location in 1998.

The development overall appears commensurate with its setting in terms of scale, mass and bulk. The visual impact of the structures is deemed acceptable upon the rural character of the area. The materials are considered appropriate for the nature of the building and the rural character of the area.

Given the proposal is situated in a rural area, it is not considered that it would have a material impact on the character and appearance of the area.

Residential amenity

Paragraph 130 of NPPF (2021) states that planning decisions should create places with a high standard of amenity for existing and future users. At the local tier, Policies 2 and 30 of SELLP (2019) emphasise the importance that new development should not have any adverse impact upon neighbouring land uses by reason of noise and odour.

The replacement building would be similar in size to the previously demolished building and would be sited in a similar position. Given this and the significant distance from the nearest residential neighbours no unacceptable impact is considered to result on neighbouring amenity. With regards to noise given the building would be used for personal storage it is not anticipated that there would be significant levels of noise.

On this basis the proposal is considered to be in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 in terms of neighbouring amenity.

Drainage

Policy 4 of the SELLP relates to flood risk management and states that new development will be permitted if appropriate flood resistance and resilience measures are proposed (criterion c); it incorporates the use of Sustainable Drainage Systems (SuDS) (criterion e); and demonstrates that adequate foul water treatment and disposal already exists or can be provided in time to serve the development (criterion g).

South Holland Internal Drainage Board has advised that given the applicant proposes to discharge surface water to a watercourse consent under Byelaw 3 is required. An informative has been appended to this effect advising the applicant of the drainage boards bylaws. The proposed building would be within 9 metres of the Board maintained watercourse. The applicant has already approached the Board to make an application for consent under Byelaw 10, which has been granted.

Given the above the proposal is considered to be in accordance with Policies 2, 3 and 4 of the Local Plan and Section 14 of the National Planning Policy Framework (2021).

Planning balance

The principle of rebuilding a storage building for personal use in this location is considered acceptable. The scale, height and position of the building would be similar to the previous building and is considered proportionate with the rural character of the area. The external appearance is standard of this type of development. In light of the separation distances between the building and the nearest dwellings no significant adverse impact is anticipated on neighbouring amenity.

In summary, any adverse impact of granting permission to the proposals would significantly and demonstrably outweigh the benefits of doing so.

Conclusion

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Taking into account the considerations above, the planning balance is overall positive when assessing the proposals against the policies taken as a whole. In particular, the proposals are

considered to comply with Policies 1, 2, 3 and 4 of the South East Lincolnshire Local Plan (SELLP), 2019 and Section 12 of the National Planning Policy Framework (NPPF), 2021.

It is accordingly recommended to approve this planning application via delegated powers.

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).

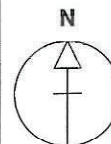
It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council 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

That the application be approved under delegated powers.



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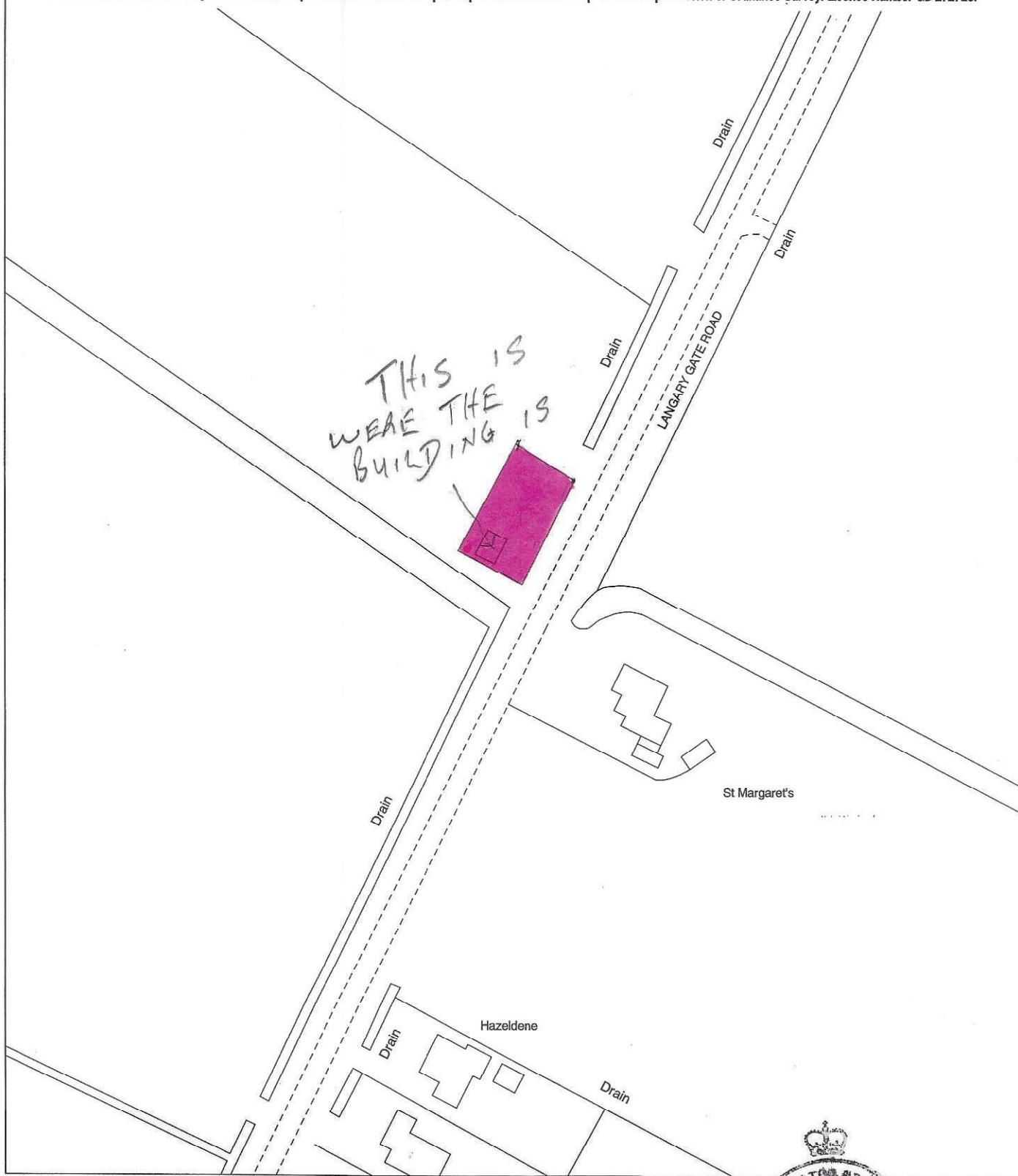


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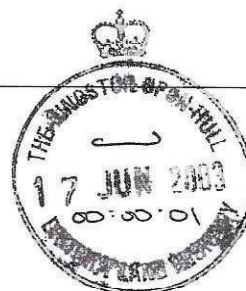
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Appeal Decision

Site visit made on 1 July 2020

by **John Morrison BA (Hons) MSc MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 13 July 2020

Appeal Ref: APP/A2525/W/20/3244705

Land adjacent to Woolie Farm, Langary Gate Road, Gedney Hill PE12 0RU

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Peter Mills against the decision of South Holland District Council.
 - The application Ref H05-0855-19, dated 28 August 2019, was refused by notice dated 7 November 2019.
 - The development proposed is described as the conversion and extension of the existing building to residential dwelling and the change of use from B8 storage and distribution to C3 residential use.
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Decision

1. The appeal is dismissed.

Main Issue

2. The main issue is whether the appeal building would be suitable for re use as a dwelling having regard to the development plan and the Framework.

Reasons

3. Policy 23 of the SELLP¹ sets out the criteria by which buildings in the countryside will be considered acceptable for re use as residential. Amongst other things, it explains that the building should be of architectural or historic merit or make a positive contribution to the character of the landscape, to justify conversion to ensure retention. As part of its justification for Policy 23, the SELLP states that rural buildings, such as brick built barns, can make a significant contribution to the character of an area and so there is a concern that they should not remain vacant, under used or become derelict, detracting from the visual character and quality of the designated countryside. The matter of such buildings as a finite resource is recognised and they are seen as an opportunity to retain and enhance the architectural quality and character of a building and its setting.
4. The wording of the policy makes it clear that not all buildings would be suitable for residential re use. Which would ensure that dwellings arising out of building conversions could not quite literally be anywhere or anything. Thus, keeping

¹ South East Lincolnshire Local Plan 2019

- such an approach in line with both the development plan and the Framework's² commitment to encouraging sustainable patterns of new development.
5. It seems sufficiently clear that it is not just brick built barns that would be acceptable for residential use under Policy 23. They are addressed as an example but there is sufficient room in the wording to my mind for each proposal for a residential re use to be considered on its own merits.
 6. That being said, and temporarily putting aside the current semi dilapidated state of the building as I viewed it on my site visit, the walls form gables at each end and are built of single skin concrete blocks. There is currently a metal framework forming a pitched roof shape but there is no covering. It is built on a concrete floor slab. There is a set of double timber doors to the front elevation as it faces Langary Gate Road. The site on which it sits is a small, flat and rectangular land parcel currently overgrown with remnants of cut trees laid about. There is some hard standing, what remains of a hedge and fence to the roadside and a post and rail timber fence to the rear where land has been separated into paddocks. The evidence suggests that the building and the site was formerly used for storage of some sort. There is a shipping container to the rear corner.
 7. Aesthetically speaking, the building is of very poor quality. It's low standard of design and use of materials do not make it particularly noteworthy in architectural terms. It seems clear to me it was designed to fulfil a purpose and erected so. Being on its own, it does not function as part of an historic rural land use, collection of other buildings or traditional farmstead. It does not seem to have any features of particular importance or relationship to the wider rural archaeology of Lincolnshire. In this respect it does not strike me as a building particularly distinguishable from a standard shed. Of which there would be a large number of various sizes dotted about the countryside. The building does not, nor is there compelling evidence to suggest it did, have a clear or particularly character defining role in the rural landscape such that it makes or had made a positive contribution to its character.
 8. Making an assessment of the building on its own merits therefore, I would say that it would not be suitable for re use under the criteria of Policy 23 in that it is not of any architectural or historic merit nor does it make a positive contribution to the character of the landscape, to justify conversion to ensure retention. It would therefore conflict with the development plan.
 9. Paragraph 79 of the Framework suggests, amongst other things, that development that would re use redundant or disused buildings and enhance its immediate setting might be acceptable with specific regard to the provision of rural housing. I agree that the appeal scheme would represent the re use of a redundant or disused building. I would equally agree that the re use of the building has the potential to enhance its immediate setting. Whilst a predominantly rural area with which a domestic use would arguably jar, the historic and seemingly agreed extant use of the appeal site and its associated paraphernalia would be discontinued and replaced by a designed and far tidier building and land use, reflective of some of the other rural housing plots along Langary Gate Lane.

² The National Planning Policy Framework 2019

10. Be this as it may, compliance with this part of the Framework does not tell the whole story. Moreover, compliance with this part of the Framework alone does not automatically make a proposal for the re use of a building acceptable. What this part of the Framework sets out, for me, is that in regard to rural housing the principle of the re use of buildings will be acceptable but sustainable development in rural areas remains the overriding principle as per paragraph 78. Compliance with any part of paragraph 79 would not mean I ignore the provisions of the development plan which contain a set of more detailed criteria for their consideration, in reflection of and justified by the need to promote sustainable patterns of development.
11. Ultimately, the development plan has primacy over the Framework for decision making purposes. The criteria of Policy 23 are, as I have said, more detailed than that set out by the Framework, but this would not render it out of date due to a lack of compliance. Indeed, it is not uncommon for development plan policies to include more detail than the principles set out by the Framework which by their nature are more broad. Both approaches consider the re use of buildings acceptable but to rely on the enhancement of setting alone and disregard other controlling provisions (such as in this case those set out by Policy 23) would open the door to far more than that which would be envisaged by the Framework and unlikely comply with the need to promote sustainable development in rural areas in the cumulative sense. To fulfil this aim, the development plans explain under what circumstances the re use of buildings will be allowed. Particularly in those locations where the principle of new housing would not normally be acceptable. Such as the countryside in this particular case. Whilst a weighty one, the Framework remains a material consideration and does not override the development plan in the majority of cases. With the above in mind, this does not strike me as a situation where this would be so.

Other Matters

12. I disagree with the appellant's assertion that the criteria of Policy 23 would virtually eliminate the majority of schemes for which paragraph 79 lends support. The criteria are reasoned and justified. Designed to achieve a specific purpose of providing housing in rural areas whilst retaining buildings of historic or architectural merit. The approach of Policy 23 is in this regard in accordance with the principles of ensuring limited development in rural areas such that it is sustainable.
13. The appellant sets out that, bar the proposed extensions and alterations to the building, it would be acceptable as a change of use to a dwelling under permitted development. Specifically, Schedule 2, Part 3, Class P of the GPDO³. There is no corroboration of this in the Council's evidence. With this and the fact that I have not seen the required detail of a submission made under Class P in mind I cannot be sufficiently certain of this to the extent that I could attach more than only moderate weight to it as a perceived fallback position. In any event, I do not have an appeal in respect of a prior approval notification before me but one for express planning permission which I have considered accordingly.

³ Town and Country Planning (General Permitted Development) (England) Order 2015

Conclusion

14. For the reasons I have given, the appeal building would not be suitable for re use as a dwelling. Doing so would cause conflict with the development plan. There are no material considerations of sufficient substance to make a decision other than in accordance with it. The appeal is therefore dismissed.

John Morrison

INSPECTOR