DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-0680-24**	**Applicant:**	**Mr M Kerry**
Proposal:	Detached storage building - Retrospective		
Location:	Fen House Farm Bungalow Broadgate Gedney		
Terminal Date:	9th October 2024		

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
28	The Natural Environment

National Guidance

National Planning Policy Framework 2023

Section 12 - Achieving well designed and beautiful places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a householder application seeking permission for the retrospective erection of a detached storage building at Fen House Farm Bungalow, Broadgate, Gedney.

Site Description

The site is located outside any defined settlement boundary and is therefore classed as being in the open countryside as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP).

History

H06-0271-13 - Side extension with brick plinth and render to whole bungalow - Approved

Consultation Responses

Gedney Parish Council

Council has no objection to this application.

Lincolnshire County Council Highways

Recommendation: No objection

This proposal is for Detached storage building - Retrospective and the access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

No Objections

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 would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

South Holland Internal Drainage Board

No objections.

South Holland District Council Environmental Protection

No comments.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received.

This can be summarised as follows:

- The submitted block plans are labelled incorrectly. The drawing of the building gives the impression that it is away from my boundary when in actual fact it isn't therefore different rules apply. This can be verified by a site visit. Site location of the outbuilding is not owned by the applicant or his family it is in fact owned between the farmer of
the adjoining land.

- The applicant's building is not even a metre away from the row of mature trees, that is just far too close. The trees are over 30 foot high and as a builder he should know that it's never a good idea to build a building over tree roots. There must be a rule to stop building so close to such high trees. Before long the roots could ruin his foundation and impact the structure of his building. To make matters worse if the tree falls due to root damage and damage to the side of the tree done during preparation of the foundations it 1could damage his property.

- I believe the applicant hasn't sought the services of a specialist arboriculturalist either to identify the type and condition of the trees. Even after cutting down branches the building as of now is touching the branches, what would happen then if the branches grows back and ruin his outbuilding roof.

- Furthermore the waste water from his outbuilding roof overhang drips, yet again as a builder he should know this is so against building regulations.

- There has been no form of communication regarding a party wall agreement, I believer there are rules and regulations as to the height of the building and distance from the boundary which Mr Kerry would have had to adhere to if this was not retrospective planning application.

- I ask the question, would the council give planning permission to this application if it hadn't have been built yet and urged the council to consider this in their decision.

- I only object on these reasons and I wish him well on his applications as long as it is within the building regulations

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):
- Principle of Development and Sustainability
- Layout, Design, and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking

Evaluation

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework (December 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering

sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within Main Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The application site in this instance is in the open countryside as detailed by Policy 1. Regardless of such, the proposal solely relates to the erection of a detached store building on an established residential site and therefore, the principle of such development is considered to be appropriate, comprising an appropriate form of development for the location.

As such, the proposal is considered to be acceptable with the requirements of the South East Lincolnshire Local Plan (2019) when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and impact on highway safety, which are discussed in turn as follows.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework and require that 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.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The store building has been constructed from dark grey horizontal cladding on the walls with mid grey metal profile cladding on the roof and mid grey roller shutter doors. The materials are all in keeping with themselves to allow the storey building to appear modern and suitable. Furthermore, following the case officer site visit it highlighted that there is an existing paddock/stable area that feature black wood for its design and therefore the store building matches this well allowing it to appear acceptable and suitable to its location. Finally, it is not visible from the highway and therefore causes no harm to the primarily rural location.

Furthermore, the height of the store building is approximately 5300mm with a total length of 10000mm and a width of 7100mm. These measurements are considered to be acceptable and suitable for a building of this nature and allows to adequately store the residents possessions and serve its purpose as a store building.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There shall be no material overshadowing or overlooking as a result of this detached storage building being located where it is. The building has no windows and is not a habitable room in any case, therefore not being able to overlook and the positioning of the plot means a material shadow will not be cast throughout the day.

There is, however, the potential for an impact in noise on the neighbouring plot to the south. An application within this southern plot which was submitted in 2023 for the change of use of a commercial joinery to the production of pet and aquatic substrate storage and was limited to set opening and closing hours to ensure there was no impact on the residential amenity - it is considered that despite the building not being run as a business that restrictions should be in place in accordance with those listed above to maintain an acceptable level of noise and ensure that no material harm occurs.

Should this application be approved the following condition will be imposed - No machinery or power tools shall be operated from the storage shed outside the hours of 09:00 to 17:00 Monday to Friday and 09:00 to 15:00 on Saturdays, nor at any time on Sundays, Bank or Public Holidays. It considered that these hours are normal working hours and therefore should machinery be used during these times it will acceptable.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Flood Risk and Drainage

Section 14 of the NPPF requires development plans to "apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 162 details "The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

If, following the application of the Sequential Test, it is not possible, consistent with wider

sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. The latter have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. However, the maps are broad brush and do not take into account any flood defences. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

Although the site is in Flood Zone 3, it is an a hazard zone of low hazard as identified within the South Holland Strategic Flood Risk Assessment, furthermore, the building itself is purely for storage in relation to agriculture. As such, this is not a habitable building and does not increase the harm to flood risk in this area.

Overall, when considering the development on balance, it is considered that the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan 2019 and the intentions of the National Planning Policy Framework 2023 in this regard.

Biodiversity Net Gain

Biodiversity Net Gain (BNG) is a way of creating and improving natural habitats, it makes sure development has a measurably positive impact (net gain) on biodiversity. Developers must deliver a BNG of 10% on site and means a development will result in more or better quality natural habitat than there was before development. There are a list of exemptions from the need for BNG, in this instance they believe they are exempt for the following reason(s) -

- The proposed storage building is located within the existing farmyard with no impact on priority habitat and is below the specified 'de minimis' threshold of less than 25m2 of any on site habitat or 5metres of linear habitat such as hedgerows. It is therefore considered that the proposed development is exempt from the Bio-diversity Net Gain requirements.

Based on this, it is therefore considered that the proposal is exempt from the mandatory BNG requirements.

Other Matters

Whilst it has been noted that an objection has been received regarding disputes over land ownership, the LPA cannot get involved or provide comment on this and it is purely a civil matter in which the applicant and objector must discuss amongst themselves. Furthermore, this also relate to the ownership of trees.

In addition to this, concerns were raised identifying that the waste water from the outbuilding roof overhangs and drips. The objector also states that this is against building regulations.

Finally, we cannot assess an application differently if it has been submitted retrospectively or prior to any works commencing on site. It can only be assessed on its own merits in relation to the

relevant planning policies.

Planning Balance

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal represents appropriate development outside the defined settlement boundary. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning policy Framework when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4 and 28 of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPFF) (December 2023). The are no significant factors in this case that indicate against the proposal and outweigh the

consideration in favour of the proposal and the policies referred to above.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.