

DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	H09-0885-23	Applicant:	Mr M Clayton
Proposal:	Erection of fence with metal gates and siting of trailer and lean-to (retrospective)		
Location:	Land Adj. To Longlands Washway Road Holbeach		
Terminal Date:	22nd January 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

National Guidance

National Planning Policy Framework 2023

Section 12 Achieving well designed places

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
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

CASE OFFICER ASSESSMENT

Proposal

The proposal relates to the erection of a fence with metal gates, the retention of a lean to and trailer.

The total length of the fencing is 170 metres, erected across three sides of the site. The height of the fencing is 1.95 metres. Part of the fencing is comprised of temporary Heras Fencing, part of the fencing is close boarded fencing. The gates comprise of industrial style, galvanised fencing with sharp tops, set back from the road. The fencing encloses the application premises. The fencing is adjacent to the highway on its major side.

The trailer is situated towards the centre of the plot and is white in colour which is 12 metres in length, 2.7m high and 2.5 metres wide.

The lean to adjoins the trailer and is of wooden and metal construction with black plastic covering, and is 9 metres long and 8 metres wide, and is approximately 2 metres high. Various wooden boxes and other storage items are situated adjacent to the lean to. The lean to is subservient in size to the trailer.

The proposal is retrospective.

Site Description

The application site is situated on the south-west side of Washway Road which curves in this location, increasing its visibility in this part of the countryside, north of the A17 and Holbeach. Washway Road is punctuated by isolated dwellings and other buildings along its length but generally the land is flat with only intermittent or entirely absent field boundaries, creating a widely spaced, flat and open vista, largely devoid of field margins. 11 Washway Road adjoins the boundary to the north.

Prior to this application no boundary treatments existed along this part of Washway Road, and Google Maps from 2020 show the expanse of the highway in this location to be clear of continuous hedgerows or boundary treatments of any kind on either side of the road.

The isolated dwellings along Washway Road tend to only have 1m post and wire fencing that blends successfully into the landscape. The exception appears to be the bungalow immediately to the north of the application site which has a historic metal galvanised fence, but this has been incorporated into laurel hedging which limits its impact upon the immediate surroundings. This appears to have been in situ for some time.

The polytunnel on site has a white plastic covering and is very prominent. The trailer is also white in appearance. Various storage items are visible on the site.

History

H09-0746-08 - Proposed erection of plastic tunnels for horticultural use. Approved 10.10.2008.

H09-1156-08 - Proposed Building for use as welfare facilities in connection with horticultural business. Refused 12 November 2008 due to:

"The site is outside the confines of a settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is an essential need. In the opinion of the Local Planning Authority the circumstances of the case are not sufficient to justify permission because the scale and nature of the development is not commensurate to the holding. As a consequence, the proposal is contrary to Policies H3 and NE13 of the Lincolnshire Structure Plan 2006, and Policy SG4 of the South Holland Local Plan 2006. These policies are in accordance with national planning policies set out in the Government's Planning Policy Statement 7 'Sustainable Development in Rural Areas', and are aimed at protecting the character of the open countryside." Appealed. Dismissed 29.09.09.

H09-0822-09 - Staff welfare facilities portacabin associated with horticultural business - Approved 9.12.2009.

Consultation Responses

Local Lead Flood Authority and Local Highway Authority

No objections:

Whilst it is unusual for Herras-type fencing to be utilised as a permanent boundary, provided its erection is wholly on the Applicant's land, then it would not be expected to have an unacceptable impact upon highway safety.

Very scant detail is provided for the gateway but provided the gates themselves open into the site, rather than out onto the highway, then again there would not be expected to be an unacceptable impact upon highway safety.

Subject to those two provisos being met, the highway authority does not wish to object to the grant of Consent for this application.

Holbeach Parish Council

No observations

South Holland IBD

There is a Board Maintained watercourse (DRN206G2402 - P24 Hurn South) adjacent to the south western site boundary. Consent would be required under the Land Drainage Act 1991 and byelaw 4 if the watercourse is altered.

The applicant has approached the Board and been granted consent for works within 9 metres of a Board maintained watercourse under their byelaws reference 23_24135_C on 22/11/2023. This includes consent for fencing, a trailer and other structures within 9 metres.

SHDC Environmental Protection

No observations.

Planning Considerations

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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development and Sustainability

The South East Lincolnshire Local Plan 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 (SELLP) 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.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The

countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

Policy 1 states that in the countryside, development would 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.

Paragraph 3.2.15 of the supporting text to Policy 1 of the SELLP notes that the countryside is a "precious resource". The site has a history of horticulture, with the polytunnel being on site for some time although only more recently having a new plastic cover over it. The trailer and lean to are retrospective on site but it is unclear as to the length of time they have been present. No evidence or supporting information has been put forward to justify why a tall boundary fence of the materials proposed, a trailer or a lean to is justified in relation to the agricultural use, or any commentary as to why they are necessary for the horticultural business to function. The use as horticulture also appears to have operated since 2009 without the fencing, trailer or lean to. In 2008 planning permission was refused on the 12 November 2008 for staff welfare facilities in connection with the horticultural business. The refusal notice makes reference to the site being outside the confined settlement in an area of open countryside where it is the policy of the Local Planning Authority to permit new development only in exceptional cases where it is satisfied that there is an essential need, which was not proven in that case.

In the Inspector's subsequent appeal decision he noted that the main issue was the effect of the proposal on the character and appearance of the surrounding rural area, and whether the proposal is reasonably necessary for the purposes of agriculture.

He reiterated that "the site lies in the open countryside where both local and national policies only permit new development in exceptional circumstances, such as when development is needed for agricultural (horticultural) purposes." He concluded that the proposed building "would seriously harm the character and appearance of the surrounding rural area and that it would not be reasonably necessary for the purposes of agriculture. It would thus be contrary to national policy." The appeal was dismissed on 29.09.09.

Whilst each case is dealt with on its own merits, and the present case is for fencing, a trailer and lean to, this development is not dissimilar to the previous appeal in terms of introducing development into the countryside. In the present case, no convincing evidence has been put forward of the need for the fencing for agricultural (horticultural) purposes, or the need for the Trailer or the lean to, and how this is connected with the horticultural or other agricultural business. The development is situated in the countryside. In economic terms in order to be considered acceptable a case would have to be put forward that the proposal is necessary for the horticultural or agricultural business to operate in this location. This has not been submitted. No evidence has been submitted that the fencing, trailer or lean to serves a community purpose, and in environmental terms the proposal introduces a discordant, urbanising feature into the rural landscape, at odds within a countryside location where roadside verges are largely devoid of any boundary treatment at all, and buildings are sporadic unless specifically necessary for agriculture. The proposals fails to demonstrate it meets the sustainable development needs of the area. As a result, it is considered that the proposal is contrary to policy 1 of the SELLP.

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, including landscape setting such as topography, 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. It also requires sustainable development considerations are met, specifically in relation to, amongst other things, size, scale, impact on character and appearance of the area and the relationship and impact on existing development and neighbouring land uses, the quality of design, and visual intrusion.

Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, in that it requires development to create distinctive places, 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 landscape surroundings, and be sensitive to landscape character.

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.

Both the wooden element of the fencing, the metal Heras fencing, the metal galvanised gates are visible from a wide area due to the flat, open landscape and surrounding fields. Very little vegetation to any significant height is situated in the surrounding fields to screen the fencing. The site is situated on a slight bend, making the fencing visible from a great distance away from the application site. The fencing is completely out of keeping and out of character with the rural countryside location.

It should be noted that the planning history indicates that planning permission has been granted for 2 polytunnels and one welfare facility with four car parking spaces with an access. However, this has not been implemented in accordance with the approved plans.

Whilst it could be argued that the current trailer resembles the welfare building, it is not in the same location and not of the same dimensions. The approved welfare building was 2.5m high, 5m wide, and 2.5m wide, smaller than the trailer now proposed. This approved welfare building was not present in July 2020.

The current polytunnel on site, also does not appear to be in the same location as on the approved plans. However, this is not part of the current planning application. Google Earth images from July 2020 do show a frame of a Polytunnel without an external covering, but not in exactly the same location as one of the Polytunnel's approved under reference H09-0746-08 . However, that Google image shows the frame of a double Polytunnel with no space in between thereby differing from the approved plans. It is unclear if the Polytunnel on site has been in situ for more than 4 years and is therefore lawful. For the purposes of this assessment, it is assumed to be lawful given that some form of Polytunnel was present on 31st July 2020 without a plastic covering, whilst noting that this evidence does not establish lawfulness given the date at the time of writing.

Whilst it is acknowledged that the position of the Polytunnel on site, with its white plastic opaque covering, does provide some screening to the Trailer and lean-to from certain angles, it is considered that the design of the trailer and lean-to, are of materials that are of poor quality, some elements appear to be of a temporary nature, and whilst they are situated towards the centre of the site and from some angles shielded by the large expanse of the polytunnel, overall the design detracts from the rural location and open landscape and are out of character with the area and landscape setting. Both the colour and materials are considered intrusive and out of keeping with the area. They do not add to the quality of design of this rural, countryside location, and worsen the character of the area rather than improve it.

The overall design of the proposals are poor, the materials are poor and unattractive and the scheme detracts from its countryside context. It is considered completely out of character. The height, size, scale, colour and materials are out of keeping. The size of the fencing is excessive

within the context of being adjacent to the public highway, and encloses the site in a manner that contributes to the site looking untidy and unsightly. The proposal fails to comprise good design, fails to sit comfortably within the landscape surroundings, and fails to maximise opportunities for improving the character and quality of the area; in fact the proposals significantly detract from the countryside character of the location and impacts their surroundings in a negative way.

The proposal therefore conflicts with Policy 2 of the SELLP which requires proposals to incorporate quality design, be acceptable in terms of character and appearance of the area, make a positive contribution to the existing development and neighbouring land uses, and to not result in visual intrusion. The proposal also conflicts with Policy 3 of the SELLP which requires development to create distinctive places, with inclusive design and layout, and be sensitive to landscape character by introducing discordant and alien features to the landscape, of poor design, with buildings and fences that are of excessive in height, poor quality materials, poor siting in a prominent location, out of keeping and character with the countryside location, creating visual intrusion.

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.

Due to the rural nature of the location, the site is sufficiently remote from neighbouring properties for the proposals to adversely affect light, outlook or residential amenity. Whilst the property Longlands is adjacent to the site, it is not considered the property is adversely affected by the proposals as the trailer and the lean-to are in the centre of the site. The gates would not affect residential amenity. As such the proposals are not contrary to the residential amenity aspects of policies 2 and 3 of the SELLP.

Flooding Considerations

Section 14 of the National Planning policy Framework (December 2023) 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 168 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.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. 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.

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 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.

The Update of the Strategic Flood Risk Assessment Residual Flood Hazard Map for the present day, mapping 1% fluvial/0.5% Tidal event probability does not indicate a risk of flooding for the application site. However, the equivalent for the 2115 scenario indicates the site is within the 'Danger for Most' category with depths of between 1.25m and 2.0m.

A site specific Flood Risk Assessment is required in flood zone 3 including minor development. A Flood Risk Assessment should have been submitted with this application to assess flood matters in detail. However, the development is classified as 'less vulnerable' because the use is for land and buildings used for agriculture (horticulture) according to Annex 3 'Flood Risk Vulnerability Classification'. Based on the low risk in terms of the resultant development, it's nature being 'less vulnerable', the Local Planning Authority do not consider it to be sufficient in this case to warrant a refusal based on the lack of a Flood Risk Assessment or harm based on flooding issues, particularly as the IDB does not object to the proposals. As a result, it is not considered that the proposal sufficiently conflicts with Policy 4 of the SELLP.

Biodiversity

Section 15 of the National Planning Policy Framework (NPPF) seeks to protect sites of biodiversity value, minimise and provide net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures. Policy 28 of the SELLP seeks to protect ecological networks of interconnected designated sites and wildlife-friendly greenspace. In addition, the policy seeks to promote biodiversity net gain in proposals by protecting the biodiversity value of land, maximising opportunities to enhance and connect natural habitats, incorporate biodiversity conservation features to enhance green infrastructure and ecological corridors, and conserving or enhancing habitat to adapt to climate change.

The proposals fail to include information or mitigation in relation to biodiversity net gain which is contrary to Policy 28 of the South East Lincolnshire Local Plan, 2019 which seeks to assess proposals directly or indirectly affecting biodiversity assets by assessing if the benefits of the proposal would outweigh the adverse impacts on the site and wider network of natural habitats and promoting biodiversity net gain by incorporating biodiversity conservation features. The lack of any biodiversity features is considered contrary to policy 28 and as such the application in its current form is not acceptable in this regard.

Highway Safety and Parking

Policy 36 of the SELLP states that all new development should provide vehicle and cycle parking in accordance with the minimum Parking Standards adopted by the Local Planning Authorities (Appendix 6).

It is not considered that the proposals result in a need for additional parking in such a location and there is therefore no conflict with Appendix 6 of the SELLP. The gates are set back from the road so it is unlikely that there would be an adverse impact on highway safety due to visibility concerns. The Local Highway Authority does not object to the proposal in addition.

The proposal does not conflict with Policy 36 of the SELLP as a result.

Planning Balance

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. To determine whether the proposal accords with the Local Plan it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

In economic terms, users of the site may work locally, and be part of the horticultural business and therefore make a contribution to the local economy. However, this is not set out in the submission. It

is not possible to ascertain if there would be economic benefits associated with the use of the trailer or the lean to. The economic benefits resulting from the proposal are neutral at the time of writing therefore.

In community terms, the proposal does not contribute to the community, in which case this aspect is neutral in the planning balance.

In environmental terms, the site incorporates a poor design for both the fencing, the lean-to and the trailer which would result in harm to the countryside, being discordant and visually intrusive, and overall a poor design with poor materials. This means the balance in terms of environmental issues weighs against the proposal. Overall, the harm of the proposal in environmental terms is considered to outweigh any other economic and community benefits in the overall planning balance and as such the material harm results in the need to refuse planning permission.

Conclusion

It is considered that the proposal conflicts with Policies 1, 2 and 3 of the SELLP due to the location within the countryside, poor design, excessive height, poor quality materials, poor siting, out of keeping and character with the countryside location, and therefore should be refused planning permission.

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.