DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H12-0069-21**	**Applicant:**	**Mr T Wiltshire**
Proposal:	Erection of building for use for germination/testing - retrospective (previously approved under H12-0972-15)		
Location:	The Smallholding Green Dyke Lutton		
Terminal Date:	26th March 2021		

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
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 2, 4, 6, 12 and 14

Representations:

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

BODIES	0	0	1	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for the erection of a building for use for germination/testing. Work was commenced on site under a previous agricultural determination (ref. H12-0972-15). However, the development was not completed within the five year time limit specified within condition 1.

Site Description

The site (approx. 1.2ha) is a parcel of agricultural land located on the southern side of Green Dyke approximately 1km north of Lutton. It is served by an existing access off Green Dyke. A drain runs along the frontage, with recently planted Leylandii hedging just behind it.

A bungalow (Tobago) is located opposite the access and residential properties are situated to the east and south-east beyond a high leylandii hedge.

Recent Planning History

H12-0972-15 - Agri Determination - Proposed agricultural building for use for germination/testing - Approved 2 November 2015.

Consultation Responses

Lutton Parish Council

Wish to object on the grounds that the building is overbearing in its location due to its height and scale, and the Council has concerns over the method of construction.

LCC Highways/SUDs

Does not wish to restrict the grant of permission.

South Holland Internal Drainage Board

We note that the applicant has not identified or provided a drainage strategy for the site within their application. 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).

Environmental Protection

No comments or objections.

Public

Objections received (summarised):
Holding less than 5ha. Also within 3km of airfield and more than 3 metres in height, so not an agricultural determination; Concerns over construction and external materials to be used; Contamination; Concerns over drainage and access to and from the site.

Information from Applicant (summarised):

Our 13 acre Smallholding registration number is 247850105, and the buildings are to be used for the germination and propagation of Beansprouts, an activity that has to be done inside a building. I used to live in Thailand, and previously cultivated Beansprouts there in the village of Huay Yang using a technique we had learned in Sisaket in the Isaan region. This was very successful due to Beansprouts "not travelling well", and best being grown near their place of consumption, which also remove "food miles".

We also plan to experiment with additional crops, and to this end have already planted fruit trees and have placed poles ready to hang grape vines from (using the Turkish "overhead" method).

Planning Considerations

Principle

Policy 1 of the South East Lincolnshire Local Plan, 2019 indicates that new development will be permitted in the countryside where it 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. Explanatory text indicates that there are certain types of use that need to function in the countryside, such as agriculture and forestry.

The National Planning Policy Framework, March 2019 promotes sustainable economic growth. Paragraph 83 specifically indicates that planning polices and decisions should support the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well designed new buildings.

The applicant has submitted details of his proposal and the building was commenced under a previous decision, albeit an agricultural determination (ref. H12-0973-15). The proposal constitutes agricultural development in the countryside and satisfactorily complies with Policy 1 of the SELLP.

Character/Appearance

The frame of the germination building has been constructed but there is presently no external skin. It is elevated on timber poles. The applicant has indicated that the roof would consist of recycled plastic coated steel sheeting (neutral colour) with ridges running "down slope". It would have timber planking running horizontally on the walls, stained dark brown. However, the applicant cannot be more specific until the recycled material becomes available.

The materials specified above are considered acceptable in principle, but more details are required to ensure the development has a satisfactory appearance and sits satisfactorily within the rural landscape. This can be addressed by means of a condition.

The development therefore satisfactorily accords with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, subject to conditions.

Amenity

A bungalow (Tobago) is located opposite the access and residential properties are situated to the east and south-east beyond Leylandii hedging.

The building would be used in conjunction with the proposed agricultural enterprise. The nature and scale of the development and its general relationship to neighbouring residential property is considered to be such that the amenity of nearby residents would not be materially harmed in terms lack of privacy, overlooking, overshadowing, blockage of light, noise and disturbance, etc.

Issues have been raised in relation to anti-social behaviour and fly tipping relating to this specific parcel of land. The former is dealt with under separate legislation. There are presently a small number of non-agricultural related items on the site such as a small aircraft. However, the scale of the activity is not currently considered to be such as to constitute a material change of use. Any fly tipping issues can be addressed under separate environmental legislation.

In terms of possible pollution, the applicant has indicated that the existing frame (former telegraph poles) has not been treated with chemicals.

The development satisfactorily accords with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 in terms of amenity/pollution.

Highway Safety

Access to the site is off Green Dyke via an existing entrance. There is no/little hardstanding on site for parking; however, there is sufficient space. LCC Highways has raised no objections on highway safety grounds.

The development therefore satisfactorily accords with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan, 2019 in terms of highway safety and parking.

Drainage

No details have been submitted relating to facilities for the disposal of surface water. Notwithstanding the applicant's comments, this is considered necessary and can be made the subject to a condition. The applicant has indicated that no foul water facilities would be installed on site.

Concerns have been raised regarding the filling in of a drain along the site's frontage, which requires separate consent from the Council. This has been taken up with applicant who has indicated that the dyke will be re-instated to its former state.

Flood Risk

The site is within Flood Zone 3 on the Environment Agency Maps and within an area of "Danger for Most" within the South East Lincolnshire Strategic Flood Risk Assessment. The sequential test should therefore be applied.

The Environment Agency's Flood Maps 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. Also, large parts of the South Holland District 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 SFRA indicates that the site is within an area identified as "Danger for Most". However, the site is agricultural land and 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 should therefore be applied. It is a method to demonstrate and help ensure that flood risk to people and property will be managed satisfactorily, while allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available. The NPPF and the PPG set out two elements to the Exceptions Test.

First, proposed development is required to show that it will provide wider sustainability benefits to the community that outweigh flood risk, and second, that it will be safe for its lifetime without increasing flood risk elsewhere and, where possible, will reduce flood risk overall. This is aimed at allowing necessary development to go ahead in situations where suitable sites at lower risk of flooding are not available whilst helping ensure that flood risk to people and property will be managed satisfactorily.

In terms of the first element, the development is required in conjunction with an agricultural enterprise. It will also assist expansion of the business and economic growth. It is therefore considered that there are wider sustainability benefits that outweigh flood risk.

Concerning the second element, the proposal constitutes commercial less vulnerable development and the structure is not for habitation, with only short term and intermittent occupancy by workers. Nevertheless, it is recommended that a flood evacuation plan be prepared and the applicant is also advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

The development therefore satisfactorily accords with local and national policy in terms of flood risk.

Planning Balance

No objections are raised in principle to agricultural development in this location. The nature, scale, appearance of the development and its relationship to neighbouring property is such that, on balance, the proposal would not materially harm the character/appearance of the countryside or amenity of nearby residents in terms lack of privacy, overlooking, overshadowing, blockage of light, noise/disturbance, etc. This is subject to a condition relating to use of external materials. The County Highways Authority does not wish to restrict the grant of permission on highway safety grounds. There are no significant flood risk issues and surface water drainage can be addressed by means of a condition.

On balance, therefore, the proposal generally accords with Policies 1, 2, 3, 4, 30 and 36 of the South East Lincolnshire Local Plan, 2019. Issues raised against the proposal are not of sufficient weight as to outweigh factors in favour and the policies referred to above.

Conclusion

The planning balance is in favour of the proposal.

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.