

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H12-0168-24 **Applicant:** Mr T Wiltshire
Proposal: Agricultural Preparation Building - Retrospective
Location: The Smallholding Green Dyke Lutton
Terminal Date: 21st June 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
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 6. Building a strong competitive economy.
Section 12. Achieving well designed and beautiful places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.
Section 15. Conserving and enhancing the natural environment.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	1	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	1	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	3	1	0	1

CASE OFFICER ASSESSMENT

Proposal

Full planning permission is sought for the erection of an agricultural preparation building, which is partially complete. It has a length of 19.6m, width of 5.65m and ridge height of 4.94m approximately. Its proposed construction consists of plywood sheets (to be painted brown) with corrugated metal roof sheeting (including clear perspex lights).

Consent was given for two other buildings (germination and propagation buildings) on site in 2021, which have not yet been completed and the proposed agricultural enterprise (production of Asian foods) has not commenced. The applicant has provided additional details in relation to this matter.

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 Luton. 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. Residential properties are situated to the east, north-east and south-east off Luton Bank, the nearest of which is Nicholwood. Red House and Green Woods are situated to the north-east bordering the site. Harecroft, Panorama and other residential properties are situated beyond Nicholwood to the south-east. Leylandii hedging presently runs along a significant proportion of the eastern, south-eastern, south-western and western boundaries.

Recent Planning History

H12-0972-15 - Agri Determination - Proposed agricultural building for use for germination/testing - Approved 2 November 2015. Development was not completed within the five year time limit specified.

H12-0973-15 - Agri Determination - Proposed propagation building - Approved 2 November 2015. Development was not completed within the five year time limit specified.

H12-0068-21 - Full - Erection of propagation building (retrospective) - Approved 25 March 2021.

H12-0069-21- Full - Erection of building for use for germination/testing (retrospective) - Approved 25 March 2021.

Consultation Responses

Lutton Parish Council

No response.

Cllr D J Wilkinson

I can see no evidence that any agricultural use takes place on this site. The site appears to be used as storage and looks untidy. I would ask that proof is provided to confirm that agricultural activities are taking place.

LCC Highways/SUDs

No objections subject to conditions.

South Holland Internal Drainage Board

The applicant proposes to discharge surface water to a watercourse; however, the discharge rate has not been provided at this stage. This proposal will require consent under Byelaw 3, and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience.

Environmental Protection

No observations/comments.

LCC Historic Places Team

The proposal is unlikely to have an impact on significant archaeological remains. The proposed agricultural preparation building is unlikely to impact upon any potential archaeology remains. In addition, the shed is not connected to any services, therefore there are no impacts derived from any underground connections. Consequently, no further archaeological input is necessary for this application.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. Objections have been received (summarised):

- Building not intended for agricultural use.
- Site harms rural appearance of the area. Presently an eyesore and a dumping ground for rubbish and items such as caravans, plane parts and old cars.
- Noise/disturbance.
- Lack of privacy and peace.
- Overshadowing.
- Pollution/hazardous waste/rat infestation.
- Impact on Conservation Area/Sustainability & Biodiversity.
- Previously a hedge fire (Leylandii) on site.
- Although applicant lives in Council property in Holbeach he does not originate from Lincolnshire, but North London, trading under numerous names on Companies House.
- Real reasoning is to build a residential property on the land.

Background Information from Applicant (summarised):

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".

The agricultural buildings are necessary in relation to growing Asian food products (mostly bean sprouts), and as such will bear little resemblance to conventional local farming. This involves multiple stages in the production process, which, while it might be better that they all went under

one roof, the layout of the site simply does not permit this.

At present, we have obtained permission for two of the stages (Germination and Propagation), but this does not include Preparation (which this building is for), or later Despatch and logistics. Thus far, even without the previous buildings having been completed, which was fundamentally an issue due to COVID, and breaches in the building supplies chain, we have been able to complete our experimental work to establish how this will all work in practice.

Also, two years of outdoor production of Pak Choi has not been possible due to the excessive winter rains, however, our fruit trees are now well established, and I am optimistic for the future. So yes, this is agriculture, but not in the sense as it is understood locally, nor would conventional agriculture be feasible on a piece of land this size and shape anyway.

I am disappointed at the very slow progress; however, this is also partially attributable to our very strong environmental credentials, and our desire to build using only recycled materials throughout.

Our 13 acre Smallholding registration number is 247850105.

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

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations
- Foul and Surface Water Drainage
- Biodiversity

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, December 2023 promotes sustainable economic growth. Paragraph 88 specifically indicates that planning policies 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 view has previously been taken that the growing of Asian food products (eg, bean sprouts)

constitutes agricultural development in the countryside. The applicant has submitted further details in this respect and has indicated that the proposed building is an additional element required as part of the overall agricultural enterprise. Nevertheless, there has been little if no attempt since 2021 to complete the germination and propagation buildings presently on site and develop the proposed agricultural enterprise, other than the planting of fruit trees. The applicant has indicated that this is due to a number of factors. Nevertheless, as it stands, it has not been satisfactorily demonstrated that an additional building is necessary in conjunction with agriculture. On this basis, the proposal fails to comply with Policy 1 of the SELLP.

Character/Appearance

Policy 2 of the South East Lincolnshire Local Plan states that sustainable development considerations should be met in relation to such matters as quality of design, size, scale, layout density and impact on the character and appearance of an area and the relationship to existing development. Policy 3 indicates that development proposals should be high quality and be appropriate to the character and appearance of an area.

These policies accord with the provisions of the National Planning Policy Framework (December 2023) 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.

Section 12 of the Framework 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.

The agricultural preparation building, which is partially complete, has a length of 19.6m, width of 5.65m and ridge height of 4.94m approximately. Its present construction consists of external plywood sheets with corrugated metal roof sheeting (including clear perspex lights). The submitted plans/details do not meet the required tests of precision and enforceability due to the deficiencies of drawn/submitted information. Moreover, the building as presently constructed is utilitarian and poor quality in terms its design, appearance and the materials used and lacks a degree of permanence due to the use of plywood sheets, which tend to warp and deteriorate with age. To grant planning permission on that basis would risk unacceptable planning harm to the character and appearance of the countryside.

The development therefore conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and advice within the Framework in this respect.

Amenity

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

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.

A bungalow (Tobago) is located opposite the access. Residential properties are situated to the east, north-east and south-east off Lutton Bank, the nearest of which is Nicholwood. Red House and Green Woods are situated to the north-east bordering the site. Harecroft, Panorama and other residential properties are situated beyond Nicholwood to the south-east. Leylandii hedging presently runs along a significant proportion of the eastern, south-eastern, south-western and western boundaries.

The applicant has indicated that the building would be used in conjunction with the proposed agricultural enterprise. On that basis, the nature and scale of the development and its general relationship to neighbouring residential property would 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.

Concerns have been raised in relation to such matters as storage of non-agricultural related items upon the site, anti-social behaviour, dumping of hazardous waste, possible pollution, rat infestation, etc. In response, there are presently a small number of non-agricultural related items stored on the site, including plane parts. This is under investigation. Issues such as possible anti-social behaviour, fly tipping, hazardous materials, etc can be addressed under separate legislation if necessary.

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

Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Further, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the Framework advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe".

Access to the site is off Green Dyke via an existing entrance and there is sufficient scope for parking on the site. LCC Highways raise no objections in principle since the building would not significantly increase any vehicle movements to and from the site. However, an informative on previous consents for the site relating to upgrading of the access to Lincolnshire County Council specification hasn't been carried out. There are no enforcement powers with informatives. Consequently, If permission is forthcoming, LCC Highways has recommended a condition to ensure safe means of access to the site, whilst protecting the public highway from further deterioration.

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, subject to conditions.

Flood Risk

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".

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.

SELLP Policy 4 is consistent with the above and states that development within Flood Zone 3 will be permitted where it can be demonstrated that there are no other sites available at a lower risk of flooding and that more vulnerable development would provide wider sustainability benefits to the community that outweigh flood risk. Moreover, an application is supported by a site-specific flood risk assessment (FRA) which, amongst other matters a) demonstrates that the vulnerability of the proposed use is compatible with the flood zone and b) identifies flood mitigation measures that demonstrate how the development will be made safe and that occupants will be protected from flooding from any source.

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 predominantly within an area identified as "Danger for Most". However, the applicant has indicated that the building is required in conjunction with the proposed agricultural enterprise. On this basis, it is not possible, consistent with wider sustainability objectives, for the development to be located in a zone with a lower probability of flooding.

The exceptions test is not required in this case because the development is categorised as "less vulnerable" and the structure is not for habitation, with only short term and intermittent occupancy by workers. Nevertheless, if permission was forthcoming, a flood evacuation plan should be prepared and the applicant 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.

Drainage

The applicant has indicated that surface water would be disposed of via a watercourse. This could be the subject of a condition if permission was forthcoming. The applicant has indicated that no foul water facilities would be installed on site.

Concerns have previously been raised regarding the filling in of a drain along the site's frontage, which requires separate consent from the Council. In relation to this matter, the applicant has previously indicated that the dyke will be re-instated to its former state.

Ecology

Policy 2 of the South East Lincolnshire Local Plan (SELLP), 2019 states that sustainable development considerations should be met in relation to such matters as impact or enhancement for areas of natural habitats. Policy 3 indicates that development proposals should, where relevant to the proposal, include the incorporation of existing hedgerows and trees and the provision of appropriate new landscaping to enhance biodiversity.

Policy 28 outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly greenspace will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposals shall provide an overall net gain in biodiversity.

The application was submitted prior to mandatory requirements for Biodiversity Net gain as introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) which requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. For applications such as the current scheme, submitted prior to the introduction of this requirement, a standard biodiversity condition would be appropriate if permission was forthcoming. This is considered sufficient at this time to conform with Policy 28 of the SELLP.

Planning Balance

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.

It has not been satisfactorily demonstrated that an additional building is necessary in conjunction with agriculture bearing in mind that no significant attempt has been made since approximately

2021 to complete the two agricultural buildings previously approved on site necessary to establish the proposed agricultural enterprise. Moreover, the submitted plans/details do not meet the required tests of precision and enforceability due to the deficiencies of drawn/submitted information. The building as presently constructed is utilitarian and poor quality in terms its design, appearance and the materials used. To grant planning permission on that basis would risk unacceptable planning harm to the character and appearance of the countryside. These concerns are such as to outweigh factors in favour of the scheme and the planning balance is not therefore in favour of the proposed 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 fails to accord with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019, along with the identified sections contained within the National Planning Policy Framework (December 2023).

Recommendation

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