DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0260-21**	**Applicant:**	**Mr D S Rous**
Proposal:	Erection of garden room, playroom & store - retrospective		
Location:	Irby House Millgate Whaplode		
Terminal Date:	30th June 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
29	The Historic Environment
30	Pollution
32	Community, Health and Well-being
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development.
Section 4. Decision making.
Section 8. Promoting healthy and safe communities.
Section 9. Promoting sustainable transport.
Section 11. Making effective use of land.
Section 12. Achieving well-designed places.
Section 14. Meeting the challenge of climate change, flooding and coastal change.
Section 15. Conserving and enhancing the natural environment.
Section 16. Conserving and enhancing the historic environment.

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Retrospective planning permission is sought for the erection of a garden room, playroom and store. An existing boiler house would be demolished.

Site Description

The site is part of former horticultural premises located at the rear of Irby House and to the south of Little Lane. It was previously occupied by derelict greenhouses and is currently grassed. The site can be accessed off both Millgate and a concrete roadway off Little Lane.

Residential properties are situated further to the east fronting Millgate. Westgate House (grade II listed) is situated to the north-west on the western side of the Little Lane access.

Consultation Responses

Whaplode Parish Council

No response.

Public (summarised)

Noise/disturbance; Anti-social behaviour; Leisure activity within agricultural/rural residential area; Additional traffic; What is the intended use?

Information from Applicant (summarised)

The application is to demolish an existing derelict boiler house and store and replace with a garden room, playroom and store which will be for the benefit of the applicant's family, children and grandchildren together with tenants of the adjacent light industrial units and their families.

This is a part retrospective application because the applicant thought that due to its remote location and usage for the benefit of his own family and tenants that it would be deemed as Permitted Development. Having attempted to study the Permitted Development rights it appears the only contravention is that the replacement building is more than 4 metres high (5.30 metres).

The applicant for several years has attempted to re-develop and regenerate this former derelict horticultural nursery. Extensive landscaping has been carried out and will continue to be done, the proposed building cannot be seen from outside the whole site.

Relevant Site History

H23-0742-16 - Full - Proposed log cabins and touring caravan site - Refused 26 September 2016.

H23-1270-16 - O/A - Residential development - proposed house and garages. Refused 27 June 2017. Dismissed on appeal 26 October 2017.

H23-0370-17 - Full - Log Cabins and Touring Caravan Site - Re-application after refusal of H23-0742-16 - Refused 13 June 2017.

H23-0261-21 - Full - Temporary siting of static caravan - Refused 18 May 2021.

Planning Considerations

The main issues in this case are:
· Policy/whether the proposal constitutes sustainable development;

· Heritage issues;
· The likely impact upon the amenity of nearby residents;
· Highway safety;
· Other material considerations such as flood risk and drainage.

Policy/Sustainability

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.

The proposed development is outside a defined settlement limit within the South East Lincolnshire Local Plan (SELLP), 2019. It is therefore within an area regarded as countryside. Consequently Policy 1 of the SELLP is applicable. It states that development will be permitted in the countryside 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.

Policies 2 and 3 of the SELLP 2019 are also relevant. They seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. They are consistent with advice within the National Planning Policy Framework (NPPF), 2021. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character. Paragraph 174 of the NPPF states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside.

Concerning Policy 1, it has been indicated that the building would be used as a garden room, playroom and store for the benefit of the applicant's family, children and grandchildren together with tenants of the adjacent light industrial units and their families. However, there is no essential need for the building to be in this location, which is historically part of a horticultural nursery and well divorced from residential curtilage associated with Irby House. Whilst personal circumstances are a material planning consideration, they carry limited weight and seldom outweigh established planning policy.

SELLP Policy 1 also indicates that development will be permitted if it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. The relevant criteria are discussed below:

Economic - The proposal would not make a significant contribution to the local economy in this case.

Community/Social - The proposal would not bring significant community benefits. Whilst the proposal would be of benefit to the applicant and his family and personal circumstances are a material planning consideration, they carry limited weight and seldom outweigh established planning policy.

An Environmental Role - The site is part of a horticultural holding and is divorced from Irby House. It is currently grassed, with an open rural feel. The building is larger and more domestic in terms of appearance than the existing horticultural boiler house to be demolished. It would constitute an intrusive element that would cause material harm to the rural character and appearance of the locality by virtue of its appearance, plus general domestication of the site. These adverse impacts would significantly and demonstrably outweigh the personal benefits that the proposed development would deliver.

In conclusion, therefore, the proposal is contrary to the aims and objectives of Policies 1, 2 and 3 of the SELLP in the sense that the development is not necessary in this location and doesn't meet the sustainable development needs of the area in terms of economic, community or environmental benefits. Rather, it would constitute an intrusive element that would be detrimental to the prevailing rural character of the countryside.

Heritage

Policy 3 of the SELLP stipulates that development should complement and enhance designated and non-designated heritage assets and respect the massing of neighbouring buildings. Policy 29 (The

Historic Environment) suggests that proposals that do not preserve or enhance the setting of a listed building should not be supported.

The above policies are consistent with advice within the National Planning Policy Framework, 2021. Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

Westgate House (grade II listed) is situated to the north-west on the western side of the Little Lane access. The separation distance between the two is such that the setting of Westgate House would not be affected.

Amenity

Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions. They are consistent with advice within the National Planning Policy Framework (2021). Paragraph 130, amongst other matters, seeks places with a high standard of amenity for existing and future users.

The proposed building is situated well away from nearby residential property. Concerns have been raised on grounds of noise and disturbance and anti-social behaviour. However, it is considered that use of the building solely by the applicant and his family and tenants of the units, as indicated within the application, would not materially harm the amenity of nearby residents in terms of overlooking, lack of privacy, noise and disturbance, etc. Any permission could be conditioned to this effect. There is no significant evidence that the proposed use would lead to anti-social behaviour, which could in any case be addressed under separate legislation.

The proposal therefore accords with Policies 2 and 3 of the SELLP in terms of amenity.

LCC Highways

Policies 2 and 3 of the SELLP indicate that sustainable development considerations should be met in terms of access and vehicle generation levels and layout of car parking. Policy 36 and Appendix 6 set out the minimum standards for parking provision based upon the use class.

Two accesses can be utilised, off Millgate and Little Lane respectively, and there is ample parking on the site. It is considered that the proposal would not have an unacceptable impact upon highway safety. The proposal therefore accords with Policies 2 and 3 of the SELLP in this respect.

Flood Risk

The site lies within Flood Zone 1 defined by the Environment Agency Flood Map. Moreover, the hazard mapping within the South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is within an area categorised as no hazard if a breach of the flood defences were to occur. There are therefore no flood risk issues in this case and the proposal satisfactorily accords with Policy 4 of the SELLP and advice within the NPPF in this respect.

Planning Balance

The development is situated on horticultural premises within the countryside and is divorced from Irby House. It is therefore unnecessary in this location. Moreover, the site is currently grassed with an open rural feel. The building is larger and more domestic in terms of appearance than the existing horticultural boiler house to be demolished. Consequently, it would constitute an intrusive element that would cause material harm to the rural character and appearance of the locality by virtue of its appearance, plus general domestication of the site. These adverse impacts would significantly and demonstrably outweigh the personal benefits that the proposed development would deliver. Consequently, the proposed development would not comprise sustainable development.

The proposal is therefore contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policy 1 indicates that development will be permitted in the countryside 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. Policies 2 and 3 indicate that sustainable considerations should be met in terms of impact upon the character and

appearance of the area and the relationship to existing development and land uses.

The above policies are consistent with advice within the National Planning Policy Framework, 2021. Section 2 is geared towards the achievement of sustainable development. Paragraphs 124 and 130 indicate that new development should be sympathetic to and maintain an area's prevailing character. Paragraph 174 states that planning policies and decisions should contribute to and enhance the natural and local environment by recognising the intrinsic character of the countryside.

Although personal circumstances are a material consideration they carry limited weight and do not outweigh established planning policy in this case.

Conclusion

The proposal is not considered to be sustainable. It is therefore recommended that the application be refused under delegated powers.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.