

Development Management Delegated Decision Report

B/23/0053



SUMMARY OF APPLICATION				
Application Reference	B/23/0053			
Application Type	Full Planning Permission			
Proposal	Change of use from agricultural to domestic garden space and change of use from storage space to residential annexe			
Location	Leyland, 322A Willington Road, Kirton End, Boston, PE20 1NU			
Applicant	Shelley Fountain			
Agent	Mr Jonathon Metcalfe, AM2 Architects			
Received Date:	08-Feb-2023	Consultation / Publicity Expiry Date:	11-Mar-2023	
Valid Date:	14-Feb-2023	Statutory Expiry Date:	11-Apr-2023	
Date of Site Visit:	03-May-2023	Extension of Time Date:	18-May-2023	
Objections received?	Yes – neighbour objection received			
5 day notification record:				
	Councillors notified	Date	Response received – date	Ok to continue
	D. Middleton	10-May-2023	None by 12.00 on 15-May-2023	Yes
	R. Pryke	10-May-2023	None by 12.00 on 15-May-2023	Yes
	C. Rylott	10-May-2023	None by 12.00 on 15-May-2023	Yes
Recommendation	Approve with Conditions			
Report by:	Simon Eldred			
Date:	15-May-2023			



OFFICER REPORT

SITE AND SURROUNDINGS:

The application site is located to the west of Willington Road, Kirton End and contains:

- a nissen hut constructed in brick, breeze-block, and asbestos-concrete sheets, which appears to be used for storage; and
- gravel-surfaced and grassed surrounding land, containing small trees.

The site is accessed via an existing vehicular access serving 322A Willington Road, and has existing residential properties to all sides.

DETAILS OF PROPOSAL:

Full planning permission is sought for the:

- change of use of the application site from agricultural to domestic garden; and
- change of use and extension of the nissen hut to become a residential annexe. The annexe will consist of a living room/kitchen, a bathroom, a bedroom, and a hall. Externally the annexe will be finished in timber and metal cladding, and it will have aluminium-framed windows and a composite entrance door. Parking for one car will be provided.

Details of the proposals are set out in the following unnumbered drawings:

- Location Plan;
- Site Plan; and
- Proposed Nissen Hut Conversion.

The application is also accompanied by:

- Unnumbered drawing – Existing Plans and Elevations;
- Completed 'Householder and other minor extensions in Flood Zones 2 and 3' form;
- E-mail from the agent sent at 16.39 on 16th February 2023, concerning past uses of the nissen hut; and
- E-mail from the applicant sent at 11.06 on 1st March 2023, in response to the objection.

RELEVANT HISTORY:

- B/04/0077 – planning permission was refused on 30th March 2004 for an outline application for residential development (one plot).
- B/20/0150 – full planning permission was granted on 22nd June 2020 for a single-storey side extension and single-storey rear extension following demolition of existing room and erection of a detached garage. Change of use from agricultural to domestic garden space.
- B/22/0391 – full planning permission was granted on 25th November 2022 for a proposed outbuilding and carport, and change of use of site from agricultural to domestic garden.

RELEVANT DEVELOPMENT PLAN POLICIES AND DOCUMENTS:

The **South East Lincolnshire Local Plan 2019** shows eastern parts of the application site (including the nissen hut) as being within Kirton End's Settlement Boundary. Western parts are shown as being in the Countryside, immediately adjacent to the Settlement Boundary. The following Policies are relevant to this application:

- Policy 1: Spatial Strategy;
- Policy 2: Development Management;
- Policy 3: Design of New Development;
- Policy 4: Approach to Flood Risk; and
- Policy 30: Pollution

OTHER RELEVANT DOCUMENTS / LEGISLATION / GUIDANCE:

National Planning Policy Framework (2021)

At the heart of the 2021 Framework is a presumption in favour of sustainable development. The following sections are relevant to this scheme:

- Section 4: Decision-making;
- Section 12: Achieving well-designed places; and
- Section 14: Meeting the challenge of climate change, flooding and coastal change.

CONSULTATION RESPONSES:

Boston Borough Council's Principal **Environmental Health** Officer indicates that they have no objections in principle, but asks that a condition to deal with unforeseen contamination should be attached, given the building's history.

Lincolnshire County Council (the Local Highway and Lead Local Flood Authority) identifies that the proposal will have no impact upon the public highway or surface water flood risk. Consequently, it indicates that it has no objections.

THIRD PARTY REPRESENTATIONS RECEIVED:

The occupier of a nearby dwelling (326 Willington Road) objects, stating *"does this application mean that the owner /occupier will be able to build on said land once it has been changed from agricultural to domestic garden space? Because as far as I am aware he has already built on the existing property, and the land is being used as a garden space, and he has also planted conifers in between us which I thought was against the law, but it seems to be the usual case that if you have money you can do whatever you want with no come backs. The reason we purchased our property was the fact that it was agricultural land and wasn't going to be built on, so I object to this planning application in every single wayhe has put a 6 foot 6 inch fence up at the rear of our property and its facing the wrong way planted 5 rows of trees when he only had permission for 1 row. He seems to just do what he wants to try and upset everybody - said fence isn't even on his border leaving a gap of two feet to which weeds grow and is never maintained, but again he does what he wants."*

EVALUATION:

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that determination must be made in accordance with the Plan unless material considerations indicate otherwise. The key considerations in regards to this application are:

- matters of principle relating to the proposed change of use of land;
- matters of principle relating to the change of use of the building;
- contamination;
- impacts on the character and appearance of the area;
- impacts on neighbours' amenities; and
- flood risk.

Principle relating to the change of use of the land

Part of the application site is identified in the Local Plan as being within the Countryside. The Local Plan is silent on proposals relating to the creation of domestic curtilages in the countryside, but Policy 1 identifies that, in the Countryside, *“development will 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”*.

The Agricultural Land Classification Maps produced by the Ministry of Agriculture, Forestry and Fisheries show the site as Grade 1 land, i.e. amongst the very best of the ‘best and most versatile land’ in the UK. Neither the NPPF nor the Local Plan’s Policies indicate that the change of use of agricultural land to a residential curtilage is automatically inappropriate. However:

- the NPPF sets out the objective for development to use *“natural resources prudently”* (paragraph 8), and requires planning decisions to recognise *“the economic and other benefits of the best and most versatile agricultural land”* (paragraph 174); and
- the Local Plan seeks to *“minimise the loss of South East Lincolnshire’s high-quality agricultural land”* (Strategic Priority 9) and identifies that *“the countryside of South East Lincolnshire is a precious resource, mainly in its role for agriculture”* (reasoned Justification to Policy 1).

The application is accompanied by no evidence to demonstrate that the proposed loss of grade 1 agricultural land would be acceptable, and consequently it is considered that it potentially conflicts with the provisions of the NPPF and the Local Plan. However, it is acknowledged that:

- none of the application site is currently in agricultural use;
- the site is small in size, and much of it is shown in the Local Plan as being within Kirton End’s Settlement Boundary;
- planning permissions B/20/0150 and B/22/0391 were granted for the change of use of land to its west from agricultural use to domestic garden space; and
- Planning Inspectors have not expressed such concerns in considering relatively recent appeals involving the loss of equally high-grade agricultural land (e.g. APP/Z2505/W/18/3219328). In these circumstances, it is considered that a refusal based upon this issue would be unlikely to be supported at appeal.

An objection has been received from the occupant of a nearby dwelling who asks *“does this application mean that the owner /occupier will be able to build on said land once it has been changed from agricultural to domestic garden space?”* The current application must be considered on its own merits, and it is considered that speculation about potential future uses for the site is not relevant to the determination of this application. Nonetheless, it is considered appropriate for a condition to be attached to remove future permitted development rights (Class E) for the erection of buildings, etc. within the curtilage of a house.

In all, therefore (subject to the above condition and notwithstanding the objection), it is considered that refusal on the basis that the loss of agricultural land conflicts with the provisions of the NPPF and Local Plan would be inappropriate.

Principle relating to the proposed change of use of the nissen hut

The Local Plan shows the nissen hut as being within Kirton End's Settlement Boundary. Policy 1 identifies Kirton End as an 'area of development restraint' and as an 'other service centre or settlement' where *“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 Policy goes on to indicate that *“development will normally be limited to committed sites and infill.”*

It is considered that the proposed conversion of an outbuilding within the village associated with an existing dwelling meets these requirements of Policy 1, subject to the attachment of a condition to ensure that the building will be occupied only for purposes ancillary to the residential use of Leyland, 322A Willington Road, Kirton End, Boston PE20 1NU.

Contamination

Policy 30 of the Local Plan indicates that *“development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks. Proposals will not be considered favourably unless the land is, or can be made, suitable for the proposed use.”*

Boston Borough Council's Principal Environmental Health Officer initially indicated that the nissen hut is *“a former agricultural storage shed and as such in its previous incarnation may have been used for agricultural chemical/fuel storage.”* The applicants responded to indicate that *“as far as we are aware speaking to the previous owners the Nissan hut was used more as a garden shed as it backed onto the bungalows garden so housed their mower tools etc. ... We currently have chopped wood stored there.”* In response, the Environmental Health Officer indicated that they had no concerns, providing a condition to deal with unforeseen contamination was attached to any decision notice.

In the above circumstances, it is considered appropriate for such a condition to be attached and that (subject to the condition) the proposal will meet these requirements of Policy 30.

Character and appearance of the area

Policy 2 of the Local Plan indicates that developments will be permitted which will not have harmful impacts upon the character and appearance of the area. Policy 3 requires high-

quality design and layout, and indicates that designs which do not maximise opportunities to improve the character and quality of an area will be inappropriate.

The nissen hut is partly visible from public vantage points but, given its small size, set-back from the highway edge, and the screening effect of surrounding buildings and planting, is a relatively insignificant feature in the street-scene.

The proposed change of use involves:

- some extension to the existing building, but the extension is modest in scale and will be located on the building's western side (away from public vantage points) and will not materially increase the building's visual impacts;
- significant re-building of the nissen hut, replacing the existing asbestos-concrete roof with one of metal sheet cladding, and introducing mahogany-stained horizontal timber cladding on its northern, southern and western elevations. Although these changes will significantly alter the building's appearance, it is not considered that the proposed materials will appear out-of-place or alien in their predominantly residential setting; and
- the introduction of new window and door openings which will give the building a residential appearance in place of its current utilitarian appearance. However, these changes will predominantly affect the building's southern elevation, and it is considered that in overall terms, will not appear out-of-place in its context.

In all, it is considered that the proposal will not have harmful impacts upon the character and appearance of the area, and therefore meets these requirements of Policies 2 and 3.

Neighbours' amenity

Policies 2, 3 and 30 of the Local Plan require neighbours' amenity to be protected.

The application site immediately is located close to 3 residential properties that are not connected to the proposed annexe - 334 Willington Road, 332 Willington Road and 330 Willington Road.

334 Willington Road is located to the north of the site, on the opposite side of the access serving no. 332A. The dwelling is located nearly 20m from the application site and is separated from it by a hedgerow and close-boarded fence of 2m-height. Given this context and the fact that no northern extension is proposed, it is considered that no. 334 will suffer no adverse impacts in terms of loss of light, overshadowing or harm to outlook. New windows will be introduced to the Nissen hut's northern elevation, but given the separation distances and boundary treatments it is considered that no unacceptably severe impacts will be felt in terms of overlooking or loss of privacy. Although the proposal will introduce a residential use to the building and site, it is not considered that this will generate noise or other disturbance that will be detrimental to no. 334's amenity (given that the area is already strongly residential).

332 Willington Road is located immediately to the east of the site, and the Nissen hut is only 5.5m from this dwelling. However, no extension on the eastern side is proposed and consequently there will be no adverse impacts in terms of loss of light, overshadowing or harm to outlook. A new dormer window is proposed to be inserted into the building's

eastern elevation (serving the bathroom) but the drawings show that this window will be opal/opaque. However, given the existing treatments on the common boundary (2m-high wall and close-boarded fence supplemented by conifers of 2.5m) and subject to the attachment of a condition to ensure that views will not be available from the eastern-facing dormer window, it is considered that no unacceptably severe impacts will be felt in terms of overlooking or loss of privacy. Although the proposal will introduce a residential use to the building and site, it is not considered that this will generate noise or other disturbance that will be detrimental to no. 332's amenity (given that the area is already strongly residential).

330 Willington Road is located to the south of the application site, and is separated from it by a 2m-high close-boarded fence and 3m-high conifers. The dwelling is located more than 20m from the Nissen hut and, given that no southern extension is proposed, it is considered that no adverse impacts will be caused in terms of loss of light, overshadowing or harm to outlook. A significant new area of glazing is proposed to be included in the annexe's southern elevation but given the separation distances and boundary treatments it is considered that no unacceptably severe impacts will be felt in terms of overlooking or loss of privacy. Although the proposal will introduce a residential use to the building and site, it is not considered that this will generate noise or other disturbance that will be detrimental to no. 330's amenity (given that the area is already strongly residential).

An objection has been received from the occupant of a nearby dwelling (326 Willington Road) who indicates that the applicant *"has put a 6 foot 6 inch fence up at the rear of our property and its facing the wrong way planted 5 rows of trees when he only had permission for 1 row. He seems to just do what he wants to try and upset everybody - said fence isn't even on his border leaving a gap of two feet to which weeds grow and is never maintained, but again he does what he wants."* Given that this property is located more than 40m from the Nissen hut, it is considered that no unacceptably severe adverse impacts will be caused. The detailed complaints raised in the objection do not seem to be directly relevant to the proposed development.

In all (and notwithstanding the objection, and subject to the above condition) it is considered that the proposal will not have unacceptably severe adverse impacts upon neighbours' amenity, and that it therefore meets these requirements of Policies 2, 3 and 30.

Flood risk

Policy 4 of the Local Plan seeks to ensure that developments will not be exposed to unnecessary flood risk and that flood risk elsewhere will not be worsened.

The application is accompanied by a completed 'Householder and other minor extensions in Flood Zones 2 and 3' form which indicates that floor levels will be set no lower than existing levels and that flood proofing has been incorporated where appropriate.

Given the above, the use proposed and the fact that any occupants of the annexe could seek refuge in 332A Willington Road in the event of flooding, it is considered that the proposal will not be unnecessarily exposed to flood risk and will not increase flood risk elsewhere.

CONCLUSION:

Subject to conditions, the proposal:

- will not have harmful impacts upon the character and appearance of the area;
- will not have unacceptably severe adverse impacts upon neighbours' amenity;
- is acceptable in flood risk terms;
- is acceptable in terms of contamination; and
- meets the requirements of relevant Policies of the South East Lincolnshire Local Plan 2019.

It is therefore considered appropriate for planning permission to be granted.

RECOMMENDATION:

Approve with Conditions

CONDITIONS / REASONS			
Pre-commencement conditions?		No	Agreed with applicant/agent - Date:
1	The development hereby permitted shall be begun before the expiration of three years from the date of this permission. Reason: Required to be imposed pursuant to Section 51 of the Planning and Compulsory Purchase Act 2004.		
2	The development hereby permitted shall be carried out in strict accordance with the application received on 08-Feb-2023 and the associated unnumbered plans entitled: <ul style="list-style-type: none">• Location Plan – Received 8th February 2023;• Proposed Location Plan and Site Plan – Received 8th February 2023; and• Proposed Elevations, Floor Plans and Roof Plan – Received 8th February 2023. Reason: To ensure that the development is undertaken in accordance with the approved details and to comply with Policies 1, 2, 3, 4 and 30 of the South East Lincolnshire Local Plan 2019.		
Conditions which apply during the course of and following completion of the development:			
3	Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking or e-enacting that Order with or without modification), no development shall take place within Class E of Part 1 of Schedule 2. Reason: To protect the amenity of neighbouring dwellings and the character and appearance of the area, in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan 2019.		

4	<p>If during development contamination not previously considered is identified, then the Local Planning Authority shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with suspected contamination has been submitted to and approved in writing by the Local Planning Authority.</p> <p>Reason: To ensure all contamination within the site is dealt with and to accord with Policy 30 of the South East Lincolnshire Local Plan 2019.</p>
5	<p>The annexe accommodation hereby permitted shall not be occupied at any time other than for purposes ancillary to the residential use of the existing dwelling at Leyland, 322A Willington Road, Kirton End, Boston PE20 1NU as identified by the site edged blue on the approved Location Plan and Site Plan.</p> <p>Reason: To ensure the accommodation is used in accordance with the intentions identified in the application, to prevent the creation of an additional dwelling on the site, and to comply with Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.</p>
6	<p>Notwithstanding the details shown on the approved plans, prior to first use of the annexe hereby permitted, the dormer window shown on the building's east-facing elevation shall be obscurely glazed to a minimum of level 3 on the Pilkington Scale (where 1 is the lowest and 5 the greatest level of obscurity) or equivalent scale, and shall be non-opening unless the parts of the window which can be opened are more than 1.7 metres above the floor level of the room in which the window is installed. The duly installed window shall be retained as such thereafter.</p> <p>Reason: To ensure that appropriate measures are put in place to limit the potential for overlooking between the development and 332 Willington Road in order to preserve the privacy of adjoining occupiers in accordance with the requirements of Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.</p>
7	<p>The development hereby approved shall be carried out in accordance with the materials specified within the application form and following drawings:</p> <ul style="list-style-type: none"> Proposed Elevations, Floor Plans and Roof Plan – Received 8th February 2023 <p>The materials shall be implemented and thereafter retained as approved unless otherwise agreed in writing by the Local Planning Authority.</p> <p>Reason: In the interests of visual amenity and character in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan 2019.</p>

INFORMATIVES / NOTES TO BE INCLUDED ON/WITH DECISION NOTICE

STATEMENT OF PROACTIVE WORKING:

In determining this application, the authority has taken account of the guidance in paragraph 38 of the National Planning Policy Framework 2021 in order to seek to secure sustainable

development that improves the economic, social and environmental conditions of the Borough.