

Mr S Gibbard



Statement of Case in Support of a Planning Appeal
Against the Refusal to Grant Planning Permission for the
Change of Use of Part of Agricultural Land to Extend a
Domestic Curtilage

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196 Moulton Chapel Road, Moulton Chapel, Spalding,
Lincolnshire.

LPA Reference: H22-1270-25

Document Reference: 1723-1 WR

Date: August 2026



town planning



landscape architecture



architecture

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- A Delegated Planning Officer's Report for planning application H22-1270-25

1. INTRODUCTION

1.1. This planning appeal has been made under Section 78 of the Town and Country Planning Act (1990) against South Holland District Council's (the LPA) refusal of planning permission for the change of use of part of agricultural land to extend a domestic curtilage (LPA Reference: H22-1270-25).

1.2. The decision notice sets out the following reasons for refusal:

"Policy 1 sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Development outside the defined settlement boundaries is designated as countryside. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location for development, as identified by Policy 1 of the South East Lincolnshire Local Plan (2019). Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019, indicate that sustainable considerations should be met in terms of impact on the character and appearance of the area and the relationship to existing development and land uses. These policies reflect guidance in the National Planning Policy Framework, December 2024. Paragraph 187(b) states that planning decisions should recognise the intrinsic character and beauty of the countryside.

The site in which the change of use is proposed is located outside any defined settlement boundary and is considered to be in the open countryside, and the proposal would result in an extension of domestic land into the countryside. This is not suitably located with particular regard to the development plan's growth strategy and spatial intent. Furthermore, no justification has been provided as to why the change of use and loss of 'Excellent' agricultural land should be supported nor any evidence as to how it meets the sustainable development needs of the area. The development would not result in economic, community or environmental benefits to justify a departure from Policy 1 of the South East Lincolnshire Local Plan (2019).

Alongside this, whilst the site would not be readily visible when travelling along Moulton Chapel Road, it would result in a clear domestication of existing agricultural land within a primary agricultural and rural setting. This would conflict with the wider area and create a harmful extension into the open countryside, which itself is not consistent with the wider setting. If this development was carried out it would set a harmful precedent for further extensions into the countryside and would create further detracting from the rural character

Therefore, the proposed development would be contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019 and paragraph 187(b) of the National Planning Policy Framework (December 2024)".

2. APPEAL SITE AND ITS SURROUNDINGS

- 2.1. The appeal site consists of 2500sqm of mown grassland to the rear (north) of 196 Moulton Chapel Road (the appellant's dwelling). Within the southern half of the appeal site there is a former agricultural building which is used by the appellant to store and work on vintage tractors and Land Rovers. The remaining land beyond the appeal site in the appellant's ownership has, until recently, been used for agricultural production by a third party. To the east and west of the appeal site there are residential properties with extensive curtilages extending north beyond the appeal site. There is an agricultural field located behind the appeal site to the north.



Photograph looking south showing the building used for the appellant's hobby, together with views of some of the extensive planting on the east and west boundaries.

- 2.2. The application site is rectangular in shape and laid to grass. It is currently separated from the garden of 196 Moulton Chapel Road by hedging and trees. There are two means of vehicular access onto Moulton Chapel Road and these remain unaffected by the appeal application.
- 2.3. There are no public rights of way on or adjacent to the site and the Moulton Chapel Road frontage is characterised by mature domestic scale trees and hedges.

- 2.4. The appeal site, together with its immediate neighbours, form a small group of buildings with extensive curtilages, which are divorced from the settlement of Moulton Chapel lying some 700m due east.

3. PLANNING POLICY

- 3.1. The development plan consists of the South East Lincolnshire Local Plan (adopted March 2019) (Local Plan) and the following policies were considered (by the LPA) in reaching its decision.

South East Lincolnshire Local Plan (adopted March 2019)

- 3.2. Policy 1: Spatial Strategy. The spatial strategy for delivering sustainable development across South East Lincolnshire is set out in Policy 1 of the South East Lincolnshire Local Plan, with development outside of the defined settlement boundaries designated as countryside.
- 3.3. Policy 2: Development Management states that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to size, scale, and the relationship to existing development and land uses.
- 3.4. Policy 3: Design of new development states that development proposals will demonstrate how an acceptable design of development including residential amenity will be secured.

The National Planning Policy Framework (NPPF)

- 3.5. Paragraph 187(b) identifies that “planning decisions should recognise the intrinsic character and beauty of the countryside”.

4. STATEMENT OF CASE

- 4.1. The LPA refers to Local Plan Policy 1 in the reason for refusal and states that the development is "...not suitably located with particular regard to the development plan's growth strategy and spatial intent". On the basis that the proposal relates to an existing dwelling already located in open countryside, there appears to be a suggestion that the proposal should be located inside a settlement boundary. Local Plan policy 1 is a spatial strategy which refers to new development and the growth of the district in a coordinated way. It does not refer or relate to proposals such as this appeal proposal, where existing development looks to use adjacent land. The proposal is inextricably linked to the dwelling and that is what has been applied for and the description of development sets this out.
- 4.2. There is no conflict with Local Plan policy 1 as the appeal proposal has no impact whatsoever on the ability of the LPA to plan spatially for growth across the district.
- 4.3. The appellant has not farmed the appeal site since 2005, when the current building on site was constructed and the soil spread around the appeal site which was then laid to grass.
- 4.4. The area of land comprising the appeal site has not contributed towards agricultural production for over 20 years and it will likely never be cultivated again, having regard to the small and awkward nature of the land in relation to modern agricultural equipment and practices.
- 4.5. The appeal site, the host dwelling and the dwellings and their land around the appeal site together occupy a corner of a much larger agricultural field which wraps round this cluster to the north and west. The appeal site and the small agricultural field owned by the appellant are not accessible from the larger field and, indeed, all the neighbouring dwellings gain access to their respective plots of land from Moulton Chapel Road.



The Google Earth extract above shows the cluster of buildings and the land associated with them set with a well-defined area bounded by drainage ditches and divorced from the larger agricultural field.

- 4.6. In 2024 the appellant successfully applied to have the agricultural occupation condition removed from the host dwelling (LPA ref H22-0834-24) in light of the lack of connection with agriculture.
- 4.7. Little has changed on the appeal site in the last 20 years; with the grass around the building kept short and the building used as a base for the appellant's hobby of restoring vintage tractors and repairing old Land Rovers. From time to time, the appellant uses the appeal site for family events and gatherings associated with his hobby.
- 4.8. The appeal proposal does not involve any built development and, having regard to the facts set out above regarding the use of the land over the last 20 years, we do not accept that there will be any loss of "Excellent" agricultural land and, even if it were concluded that there was, the amount involved is miniscule.

- 4.9. The Local Plan does not prevent the use of best and most versatile land and there is no requirement to justify the 'loss' of such a small area of land, which clearly has not and will not be used for agricultural production ever again.
- 4.10. The LPA states that the proposal will result in a ".....clear domestication of existing agricultural land within a primary agricultural and rural setting. This would conflict with the wider area and create a harmful extension into the open countryside, which itself is not consistent with the wider setting". This wording in the decision notice is preceded by "...the site would not be readily visible when travelling along Moulton Chapel Road". We would make the point that as well the site being "not readily visible", it is in fact largely invisible unless a pedestrian happened to look up the access into the appeal site, in which case all they would see is grass.
- 4.11. Moulton Chapel Road is a straight rural road subject to the national speed limit and this represents the only likely place where the appeal site could be viewed from (there are no other public vantage points). As a matter of fact, the appeal site cannot be viewed from any public vantage point as it is largely contained between the two existing curtilages to the east and west, which extend past the appeal site into the countryside. On the basis that the proposal is already in place, it should be relatively straightforward to demonstrate the harm alleged and we would, therefore, expect that the LPA will set this out in its Statement of Case in due course.
- 4.12. Having looked at the appeal proposal in the context of its well-established context, there is no demonstrable harm whatsoever on the rural character of the area and, accordingly, there is no conflict with Local Plan policy 3 or paragraph 187(b) of the NPPF including any impact on neighbouring residential amenity, the former point being acknowledged in the Planning Officer's delegated report for the appeal planning application reproduced at **Appendix A**. We would also make the point that there were no objections from local residents to the appeal planning application.

5. CONCLUSIONS

- 5.1. The appeal proposal consists of the extension of an existing use in the open countryside, which has no impact whatsoever on the ability of the LPA to plan spatially for strategic growth across the district. It is neither possible nor sensible to suggest that a garden extension should be located within the boundary of a sustainable settlement. There is, therefore, no conflict with Policy 1 of the Local Plan.
- 5.2. The change of use of the agricultural land and building to be used in conjunction with the host dwelling does not result in the loss of land as no further development is proposed. In the event that the Planning Inspector considers that there is a loss of best and most versatile land, it is considered that the amount lost is small and that the land has not been used for agricultural production for over 20 years and is never likely to be used for agriculture again.
- 5.3. The appeal proposal is largely in place today and the Planning Inspector is invited to view the site from both beyond the site boundary and from within, which will demonstrate that there is no detrimental impact on either the character of the area or on the reasonable private amenity of the dwellings either side. Accordingly, the proposal is entirely consistent with the aims and objectives of Policy 3 of the Local Plan.
- 5.4. The Planning Inspector is, therefore, respectfully requested to allow the appeal and grant planning permission.

Appendix A

Delegated Planning Officer's Report for planning application H22-1270-25

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-1270-25 **Applicant:** Mr S Gibbard
Proposal: Change of use of part of agricultural land to extend domestic curtilage
Location: 196 Moulton Chapel Road Moulton Chapel Spalding
Terminal Date: 17th February 2026

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

National Guidance

National Planning Policy Framework December 2024

Section 12 - Achieving well designed places
 Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application seeking permission for the change of use of agricultural land to a residential use, in order to extend the domestic curtilage at 196 Moulton Chapel Road, Moulton Chapel.

The proposal seeks to change the use of around 2500sqm of agricultural land which is set to the rear of the property.

Site Description

The site is located outside any defined settlement boundary and is therefore in the open countryside as outlined within the South East Lincolnshire Local Plan, 2019 (SELLP). The dwelling is set in a small cluster of four dwellings and surrounded by open agricultural fields.

There is currently an existing building within this parcel of land which has been used for agricultural purposes throughout the life of the site.

History

H22-0863-96 - Erection of garage - Approved

H22-0812-98 - Extension to house - Approved

H22-0013-01 - Extension to house - Approved

H22-1190-07 - Erection of 2 conservatories - Approved

H22-0455-17 - Occupation of dwelling by persons not employed in agriculture (Condition 3 of H22-0680-78) - Approved

H22-0834-24 - Retention of dwelling without complying with agricultural habitation clause (Condition 3 of H22-0680-78)

Consultation Responses

South Holland Internal Drainage Board

No comments.

Lincolnshire County Council Highways Authority

Recommendation: No Objections

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

This proposal is for change of use of part of agricultural land to extend domestic curtilage and the access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

Lincolnshire County Council Historic Places

Thank you for consulting us on this.

Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request.

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

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

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity.

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 December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Planning Considerations

Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) 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.

The National Planning Policy Framework (NPPF) December 2024, sets out the Government's planning policies for England and how they should be applied. It advises that the purpose of the planning system is to contribute to the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives; an economic objective, a social objective and an environmental objective, which are interdependent and should be pursued in mutually supportive ways.

Policy 1 of the South East Lincolnshire Local Plan (2019) 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 rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres and Minor Service Centres and Other Service Centres and Settlement is designated as countryside. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The application site in this instance is outside any defined settlement boundary and is therefore within open countryside as detailed by Policy 1. Policy 1 of the SELLP states that in the countryside development will only 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.

In context of this, the principle of extending the domestic curtilage within this location is considered to be inappropriate.

The National Planning Policy Framework (December 2024), at paragraph 48, confirms planning law requires that applications for planning permission are to be determined in accordance with the development plan, unless material considerations indicate otherwise.

It has not been demonstrated that the development is necessary in this location or that it meets the sustainable development needs of the area, as required by Policy 1 of the SELLP. The proposal would result in the domestication of the existing countryside character as well as the loss of existing agricultural land which is listed as 'Excellent' within Natural England's agricultural land classification. No justification has been provided as to why this land should be converted and why the loss is acceptable in this instance. Finally, the proposal would undermine the use of this land to function for future agricultural purposes.

As such, the proposal is located in countryside, outside a settlement boundary and is not suitably located, with particular regard to the development plan's spatial strategy and site accessibility. The development is therefore not supported by the locational principles of the Spatial Strategy as defined in Policy 1 of the SELLP. Consequently, the development is considered to conflict with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019) and is not supported when viewed in principle.

Layout, Design and Consideration of the Character and Appearance of the Area

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed 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 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout 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 and history, including the surrounding built environment and landscape setting such as topography, street patterns, 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 (2019) 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. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it requires development to 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 or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework (December 2024) 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.

Although the site in this instance is not readily visible from the highway when travelling along Moulton Chapel Road and thus would not cause direct harm to the street scene in this regard, it would result in the domestication of the land which itself would vastly conflict with the wider area and see an extension into the open countryside. This would detract from the rural character of the area and causes harm in this regard through it harmfully domesticating the countryside location. Furthermore, the associated paraphernalia with such a use would also further erode the rural character of the area.

Taking account of the nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character and appearance of the area and would therefore conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2024) 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.

No physical building works will be carried out on site which would be capable of materially overshadowing or overlooking nearby residential properties. Furthermore, although the use of the parcel of land would change there would not be a drastic change in the comings and goings to the site through the way of an increase in noise etc. Therefore, the change of use would not see any materially harmful effects on the nearby neighbouring sites.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Flood Risk and Drainage

Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

This goes on to state, within Paragraph 172, that all plans "should 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".

It is important to note that whilst minor developments such as householders must meet the requirements for site-specific flood risk assessments, they should not be subject to the sequential test, nor the exception test, as outlined in Paragraph 176 and to be read in conjunction with footnote

The site lies within Flood Zones 1 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.

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 (2019) 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.

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.

As the property is within Flood Zone 1 and an area of no hazard within the SFRA as well as being purely for a change of use of land with no physical building works being proposed there would not be any significant harm raised and it would not materially increase the flood risk for the site and surrounding area in a harmful way.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) 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, following mitigation, would be severe, taking into account all reasonable future scenarios".

In respect of highway matters, 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.

The proposal solely relates to the change of use of agricultural land to domestic in order to extend the domestic curtilage on site. Existing accesses are already in place to allow the applicants to travel safely via a vehicle to and from the site with the land in question being connect to this access. Therefore, no harm should be caused to the safety of the highway or the existing parking arrangements. LCC Highways have also raised no objections to the scheme from a highway safety perspective.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

For applications that are submitted prior to the introduction of this requirement, the development would exempt from the mandatory 10% requirement and as such, the Biodiversity Gain Condition would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

When taking the above into account, the development in this instance is exempt from the statutory 10% Biodiversity Net Gain requirements. The proposal is purely a change of use and does not propose any building works on site, the proposal would therefore impact less than 25sqm of existing on site habitat and is classed as de minimis.

Planning Balance

As detailed above, 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.

The proposal represents inappropriate development outside any defined settlement boundary. Whilst the development would not harm the amenity of nearby residents, provides adequate parking and does not cause an increase in flood risk on site, the proposal is wholly unacceptable from a principle perspective and causes harm to the character of the area. When viewed as a whole, the proposal does not conform with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.

In this instance, these are material considerations that weigh against the proposal and as such, the planning balance is not in favour of the 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 is considered to be at conflict 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 (NPPF) (December 2024). These are significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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

A design consultancy specialising in
Town and Country Planning,
Landscape Architecture and
Architecture