DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-0749-25**	**Applicant:**	**K Doubleday-Collishaw**
Proposal:	Proposed Over Ground Rain Water Harvester Tank		
Location:	Sycamore Lodge Jiggles Gate Gedney		
Terminal Date:	31st October 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework December 2024

Representations:

	Object	Support	No Obj.	Comments
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks consent for a Lawful Development Certificate for a proposed over ground rain water harvester tank at Sycamore Lodge, Jiggles Gate, Holbeach St Johns. Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The site is located outside any defined settlement boundary and is therefore in the open countryside as outlined in the South East Lincolnshire Local Plan, 2019. Sycamore Lodge is in a very rural setting with large open farming fields in the immediate setting. It is located near the junction between Jiggles Gate and Joy's Bank

History

H06-1242-18 - Proposed agricultural storage building - Approved

H06-1132-18 - Proposed agricultural storage building - Approved

H06-0073-19 - Proposed extension and alterations, including new site access - Approved

H06-0179-24 - Proposed agricultural extension - Approved

Consultation Responses

No consultation responses received.

Planning Considerations

Relevant Legislation

Section 192 of the Town and Country Planning Act (1990) (as amended) sets out the following:

"Certificate of lawfulness of proposed use or development.

(1) If any person wishes to ascertain whether -
(a) any proposed use of buildings or other land; or
(b) any operations proposed to be carried out in, on, over or under land,
would be lawful, he may make an application for the purpose to the local planning authority specifying the land and describing the use or operations in question.

(2) If, on an application under this section, the local planning authority are provided with information satisfying them that the use or operations described in the application would be lawful if instituted or begun at the time of the application, they shall issue a certificate to that effect; and in any other case they shall refuse the application.

(3) A certificate under this section shall -
(a) specify the land to which it relates;
(b) describe the use or operations in question (in the case of any use falling within one of the classes specified in an order under section 55(2)(f), identifying it by reference to that class);
(c) give the reasons for determining the use or operations to be lawful; and
(d)specify the date of the application for the certificate.

(4) The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness.]"

Therefore, the LPA needs to be provided with sufficient information to demonstrate that, the proposed building is lawful in planning terms and would not require full planning permission.

Assessment

The over ground rain water harvester tank would be a 'MegaStor Galvanised Steel Water Storage Tank' and would have a height of 3.81m and a diameter of 11.89m. It would be located to the rear of 'Sycamore Lodge' within the actual farmyard area of the site, adjacent to large agricultural buildings. The tank would be used to manage clean and dirty water separation to reduce the impact of diffuse pollution from the farmyard.

Whether Operation Development is Proposed

Section 55 of the Town and Country Planning Act 1990 (the Act) defines development as the "carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land" (1).

It is considered the siting of this over ground rain water tank would not result in any material change in use of the land or buildings but could be classed as the carrying out of building and/or engineering operations and therefore could be classed as development in this regard.

Notwithstanding this, such works could be approved under Part 6 of the General Permitted Development Order which covers off 'Agricultural and forestry' works on agricultural land such as this. The LPA are currently unaware of the size of the overall agricultural land so are unsure on if it could be assessed under Class A (5 hectares or more) or Class B (not less than 0.4 hectares but less than 5 hectares). In any case, Class A allows for works for the erection of a building or engineering operations whilst Class B does not.

If the proposal met the requirements under Class A of Part 6 of the GPDO then this could be permitted and considered to be acceptable if it was able to be justified as 'engineering operations'. Despite this, the application has been submitted under a Section 192 Application and not a Prior Approval Application and therefore cannot be approved under this classification due to it needed this prior approval from the LPA.

The proposal is considered to be 'development' and one that would need either full permission or prior approval from the LPA before it is commenced in this regard. The LPA therefore do not deem the proposal in this instance lawful due to the reasons outlined within the report.

Additional Considerations

Public Sector Equality Duty

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

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

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

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

Human Rights

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

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

Recommendation

A certificate of lawfulness should not be issued under S192 of the Town and Country Planning Act, 1990.