

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0951-25 **Applicant:** K Doubleday-Collishaw
Proposal: Proposed Over Ground Rain Water Harvester Tank
Location: Jekylls Farm Old Fen Dike Holbeach St Johns
Terminal Date: 9th December 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

The application seeks consent for a lawful development certificate for a proposed over ground rainwater harvester tank. Consent is sought under Section 192 of the Town and Country Planning Act (1990) (as amended).

Site Description

The site comprises land at Jekylls Farm, located within an existing farmyard site, to the south-west of Old Fen Dike. The tank is proposed to be located to the south-east of an existing agricultural building, within an area of hardstanding.

Relevant Planning History

No applications have previously been submitted on the land where the tank is proposed.

The following applications relate to land to the north-east:

H06-0427-07: (Prior Notification) Erection of cattle shed/hay store - refused 01 May 2007 (consent was refused as full permission was required as the building involved livestock which was located

within 400 metres of any building occupied by people and which was not itself in any agricultural unit).

H06-1002-20: (Full Application) Proposed Service Workshop - approved 25 January 2021

The following application relates to land to the north-west:

H06-0448-09: (Full Application) Proposed agricultural building - approved 06 August 2009

Consultation

There is no statutory obligation for the Local Authority to publicise an application for a certificate of lawful development. Notwithstanding this, a site notice has been displayed for 21 days.

Key Planning Considerations

Assessment

The Town and Country Planning Act (1990) sets out that there are two main types of "development". One is operational development, such as the erection of a building, and the other is the material change of use of land.

In this case, the proposal is for an over ground rainwater harvester tank. The tank is proposed to measure 10.06m in diameter and 3.81m in height. The tank is proposed to be constructed from steel. The tank is proposed to be located within an established farmyard and it is likely that the tank would be partially screened from public view from the north-east due to the location of various buildings, structures and vegetation to the north-east of the site.

The submitted information does not set out specifically how the applicant considers that the tank is permitted development. However, it is likely that the tank would be considered as permitted development that is allowed under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The applicant has clarified that the site is part of an agricultural unit that exceeds 5 hectares. For reference, Class A sets out the following:

"Class A - agricultural development on units of 5 hectares or more

Permitted development

A. The carrying out on agricultural land comprised in an agricultural unit of 5 hectares or more in area of

(a) works for the erection, extension or alteration of a building; or

(b) any excavation or engineering operations,

which are reasonably necessary for the purposes of agriculture within that unit."

It is likely that the proposed tank would be considered as reasonably necessary. However, the tank would only be considered as permitted development if the applicant submitted an application to determine if prior approval was required for the siting, design and external appearance of the tank. The local planning authority would then need to confirm if prior approval is required, and if so, if prior approval can be granted. As such, in this case, it is not considered that the certificate of lawfulness can be granted as a prior notification application has not been submitted.

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

The proposed tank could potentially be permitted development that is allowed under Part 6, Class A of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). It is considered that an application to determine if the proposed tank requires prior approval would be required. In the absence of such an application, the certificate cannot be granted under S192 of the Town and Country Planning Act, 1990.

Recommendation

On the basis of the submitted information, a certificate of lawfulness cannot be issued under S192 of the Town and Country Planning Act, 1990.