

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-1103-25 **Applicant:** Mr E Harris
Proposal: Change of Use of Storage Barn to Create Residential Dwelling
Location: Blazegate Lutton Spalding
Terminal Date: 6th January 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
23 The Reuse of Buildings in the Countryside for Residential Use
28 The Natural Environment
33 Delivering a More Sustainable Transport Network
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 9 - Promoting sustainable transport
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

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	2	0	0
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

This is a full application seeking the change of use of storage building to residential use. It is proposed that the building would be altered as part of the conversion, including the addition of black horizontal cladding to the exterior and the installation of two windows to replace an existing door on the south elevation. The building would not be extended as part of the proposal. The result of the works would be a one bedroom dwelling with an internal floor area of 55sqm.

Site Description

The site is outside of any settlement outlined within the South East Lincolnshire Local Plan, 2019, sitting approximately 750 metres south-west of Lutton. The area is characterised by agricultural fields interspersed with sparse dwellings and agricultural/commercial buildings. The nearest neighbouring properties are located approximately 75 metres to the east and west of the site; both are dwellings.

The site itself is an established area of development, with evidence of development on the site going back to the 1990s. The site is fenced, preventing views in, and largely obscuring the buildings to which this application relates. Despite the development on the site, it appears largely vacant bar evidence of a small scale use for storage.

Relevant History

H06-0204-25 - Full. Change of Use/Conversion and extensions of Brick Storage Barn to Residential. Refused 13/05/25.

H06-0695-24 - Full. Repairs and re-roofing on existing building and new timber framed building - Retrospective. Approved 27/11/24.

H06-0955-97 - Full. Erect timber cutting and packaging building. Refused 29/03/99.

H06-1316-97 - S191. Site and garage for the parking and maintenance of commercial vehicles. Refused 15/12/98.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Historic Environment Officer

"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"

Long Sutton Parish Council

Support - There are no objections to this application.

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The proposed development does not increase the total impermeable area within the site. The applicant has indicated that they intend to dispose of surface water via infiltration to an existing soakaway. We recommend that you satisfy yourselves that the existing soakaways are in good condition, appropriately sized for the development and therefore are able to adequately drain the proposed building, as per current building regulations.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to treat foul waste using a package treatment plant. Within Drawing No. HARR/pl/01, it is indicated that the applicant intends to discharge the treated foul water from the treatment plant to the ground via infiltration. Please note that the applicant must ensure that the system is in line with the General Binding Rules for Small Sewerage Discharges. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3. Please note that any consent granted for the discharge of treated foul water is likely to be subject to a Treated Foul Water Development Contribution fee (TFWDC) as outlined within our Development Control Charges and Fees.

Lincolnshire Wildlife Trust

Thank you for inviting comment from Lincolnshire Wildlife Trust on this application. Our conservation officers have reviewed the referenced development against a series of strategic conservation and ecological criteria. In review of the variation documents presented, The Trust has no substantive comments or recommendations on the proposal.

Highway and Lead Local Flood Authority

Additional Information Required:

"A note should be added to the proposed site plan to say that the existing access will be upgraded to Lincolnshire County Council's Specification."

Gedney Parish Council

Council supports this application.

Environment Agency

"Environment Agency position:

In accordance with Policy 4 of the South East Lincolnshire Local Plan, we object to this application due to the absence of an acceptable flood risk assessment (FRA).

Reasons:

The submitted FRA does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change planning practice guidance. In particular, the FRA does not propose adequate flood risk mitigation measures to ensure that occupants will remain safe in the event of a flood.

Policy 4 of the Local Plan is clear that a change of use that would result in self-contained ground floor residential accommodation in areas of hazard rating 'danger to some', 'danger to most' and 'danger for all' will not be supported. The Policy states that in these areas unrestricted access to a habitable room above the flood level and flood warning and evacuation plan will be required.

The finished floor level of the dwelling has been proposed at 0.5m above the level of the adjacent road. We advise that finished floor levels should be set in line with the South East Lincolnshire flood risk advice matrix, found in Appendix C of the Strategic Flood Risk Assessment. Finished floor levels for single storey dwellings should be informed by the 2115 0.1% breach hazard maps and be based on the levels found at the site rather than the adjacent road level.

Alternatively, unrestricted access to a habitable room above the predicted flood depth and a flood warning and evacuation plan should be provided, in line with Policy 4 of the Local Plan.

Overcoming our objection:

To overcome our objection, the applicant should submit a revised FRA which addresses the points highlighted above.

If this cannot be achieved, we are likely to maintain our objection".

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, two letters of objection have been received; however, these are from the same address.

These can be summarised as:

- Impact of existing kennels in area would be detrimental to amenity of potential residents
- Concerns regarding the safety of the site access

Key Planning Considerations

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is 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, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development and Sustainability

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which 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 need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy 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 are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is outside of any of the defined settlement boundaries, and as such, can be considered to be within the countryside from a planning perspective. Policy 1 states 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".

Principle of Conversion

Notwithstanding the above, Policy 23 of the SELLP relates to The Reuse of Buildings in the Countryside for Residential Use, all of which must be met. This policy states that "proposals for the conversion of existing buildings which are located outside defined settlement boundaries to residential use will be permitted provided that:

1. the building is structurally sound and capable of conversion without the need for significant extension, alteration or rebuilding;
2. the building is of architectural or historic merit or makes a positive contribution to the character of the landscape, to justify conversion to ensure retention;
3. the proposal is in keeping with its surroundings;
4. the design is sympathetic to the character and appearance of the building in terms of architectural detailing and materials of construction; and
5. development leads to an enhancement of the immediate setting of the building".

The Reasoned Justification associated with this policy explains the rationale and aims of Policy 23. Paragraph 5.15.3 states:

"Rural buildings, such as brick-built barns, can make a significant contribution to the character of an area and so there is a concern that they should not remain vacant, under-used or become derelict, detracting from the visual character and quality of the designated Countryside. Policy 23 therefore makes provision for the conversion and reuse of rural buildings as dwellings. South East Lincolnshire's stock of traditional and historic buildings is a finite resource and so conversions provide the opportunity to retain and enhance the architectural quality and character of the building and its setting."

This is expanded upon by Paragraphs 5.15.4 and 5.15.5, which are copied below for context:

"5.15.4: However, not all buildings in the Countryside are suitable for conversion as they may be of insubstantial construction, of poor design or not in keeping with their surroundings. Buildings to be converted should be structurally sound and proposals which require significant extension, alteration or rebuilding will be not acceptable. Structural surveys may be required in order to demonstrate that a building is structurally sound. Proposals which would involve rebuilding, rather than conversion, will be regarded as new dwellings in the Countryside and will not be permitted."

"5.15.5: Proposals will be required to be sympathetic to the character and appearance of the building in terms of architectural detailing and materials of construction in order to conserve its interest. They should also seek to optimise the potential to enhance the character and quality of the site. In terms of vehicular access, proposals should meet the requirements of the Highways Authority."

The aims of Policy 23 can therefore be broadly outlined as the retention and enhancement of buildings of architectural, or historical merit, in the Countryside.

Assessing the proposal against the above, the following is considered:

1. The proposed building appears structurally sound, particularly when the repair works approved under H06-0695-24 are taken into account. It has been clearly demonstrated that the building is capable of conversion to a single bedroom dwelling as proposed without the need for significant extension, alteration or rebuilding. Criterion 1 has been met.
2. Criterion 2 outlines that the building should be of architectural or historic merit to justify its conversion. The existing building is not unattractive, although it is no particular note or merit. Accordingly, while the building is of no harm to the character of the area, it does not strictly benefit it either. Therefore, there is no clear justification within the limited scope of criterion 2 for the conversion.
3. The proposed development would be in keeping with its surroundings. The resultant dwelling would not appear out of character with the existing dwellings in the wider area. The loss of the existing use of the site could be seen as a betterment, as the more commercial use is somewhat of an outlier in the immediate area. The proposal therefore conforms to Point 3.
4. Whilst the other changes proposed are minor, the proposed replacement of materials represents a significant change to the appearance of the building. The resultant building, whilst a continuation in

the scale and overall mass of the existing structure, would be clearly visually distinct from its predecessor due to the change in materials. As a result of the extent of the changes, it cannot be said that the design is sympathetic to the appearance of the existing building.

It is important to note at this point that Criterion 4 purely requires the design to be sympathetic to the existing building, rather than the wider area. Moreover, it does not allow dispensation for positive alterations to a building, merely requiring the design to be sympathetic to the original. Therefore, this assessment is a matter of judgement towards the extent of the changes, without assessment of whether this enhances the site.

5. The proposal would lead to a neatening of the site, as the more industrial use is replaced. Existing fencing, which is somewhat of an eyesore, may be removed to allow for a more open character which better reflects the Fens area. In extending the property, the building itself would be neatened, and the existing half complete appearance would be removed. Therefore, the proposal would represent an enhancement of the immediate setting. That being said, this enhancement is not so great as to outweigh any other concerns. The resultant dwelling, while not of poor quality by any means, is a relatively typical bungalow. The proposal is not exemplary, and it should not be considered that the enhancement is so great as to trigger the provisions of Paragraph 139 of the NPPF (see further discussion below).

The existing building is of no architectural merit. Moreover, the alteration in materials proposed would represent such a significant change to render the design unsympathetic to the host building. Therefore, the proposal is considered to fail to conform to Points 2 and 4 of the Policy 23, and accordingly the principle of development is considered unacceptable.

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

Section 12 of the NPPF, "Achieving well-designed places", states 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 NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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.

As outlined above, the existing site is not overly beneficial to the area. The site is encompassed by a large, unappealing fence, with the site itself appearing largely disused and unorganised. Work appears half-complete on the building itself. The result is a utilitarian site, which detracts somewhat from the openness of the area and adds limited positive qualities. To a certain extent, the proposal may represent a neatening of the site to this end, as it offers an opportunity to improve site conditions. That being said, this neatening could occur irrespective of the outcome of this planning application through improved maintenance under permitted development. To this end, the weight

attributed to this point is reduced.

That being said, the resultant dwelling is of a fairly typical design. It is not unattractive but is of no real merit. It cannot be said to significantly enhance the overall architectural quality of the wider area. The provisions of Paragraph 139 of the NPPF are such that "significant weight should be given to: development which reflects local design policies and government guidance and/ or outstanding or innovative designs". To this end, it is not considered that the proposal merits the significant weight afforded by Paragraph 139. As such, while moderate weight is given in favour of the proposal for its clear enhancement of the site, this weight is tempered and is not so substantial as to outweigh any other concerns.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF 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. Policy 30 of the SELLP concerns pollution, including contaminated land.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The isolation of the dwelling prevents significant amenity harm. No overlooking or overshadowing would occur due to the development. The level of noise generated from a dwelling would be no greater than that of the existing use.

Concerns have been raised by residents regarding the impact the existing kennels would have upon the amenity of potential occupants. Whilst this point is noted, it is not considered that the noise generated by the kennels would be overly detrimental to residential amenity.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms. Ample room has been provided for parking in this instance.

The site would not necessarily increase traffic generation. Moreover, as a domestic use, the size of vehicles likely to visit the site would potentially be significantly smaller. As a result, the proposal is not considered to have a severe or significant impact upon the highway network or highway safety.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact

on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Section 14 of the NPPF requires development plans to "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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states that "the sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)."

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate. The process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall"

The site lies within Flood Zone 3 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 SELLP 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.

Unlike the Environment Agency maps previously mentioned, the SFRA takes into account flood defences. The SFRA modelled flooding consequences resulting from both overtopping and breaching of flood defences, both of which are not an inconceivable occurrence, particularly in light of expected changes to weather patterns and raises in sea level due to climate change. The conclusions of the SFRA therefore assume a failure of flood defences, and the whole purpose of the SFRA is to ensure safety of residents in this event. One cannot therefore merely say that a property is safe just because it is currently protected by existing measures.

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 SFRA as a basis to apply the sequential test. To ensure safety for the lifetime of a development, assessment is conducted against 2116 modelling data. Conclusions cannot be drawn from the present day maps as they do not demonstrate climate allowances etc, and do not consider the need for an assessment over the lifetime of the development. As such, the conclusions made at paragraph 9.4 of the Flood Risk Assessment are erroneous.

Within the SFRA the site is classed as danger for most, with a hazard depth of 1m, although land immediately adjacent is within the 2m flood depth area. Appendix C of the SFRA outlines primary

sources of flooding throughout the District, broadly diving land into tidal and fluvial areas. This site is within the tidal flood mapping extent.

Paragraph 176 of the NPPF states that "Applications for some minor development and changes of use should also not be subject to the sequential test, nor the exception test set out below, but should still meet the requirements for site-specific flood risk assessments set out in footnote 63". When an application can be classified as exempt is expanded upon within footnote 62, which clarifies that "this includes householder development, small non-residential extensions (with a footprint of less than 250sqm) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site".

As a conversion, while the site-specific flood risk is high, the proposal is exempt from the need to apply the sequential or exceptions test.

However, the provisions of Section 14 of the NPPF and Policy 4 of the SELLP are such that even if the sequential and exceptions test need not be applied, the proposal would still have to be safe for its lifetime. Policy 4 states "Change of use of existing buildings will be supported providing they do not pose an increase in risk to people. Change of use that would result in self-contained ground floor residential accommodation in areas of hazard rating 'danger for some', 'danger for most' and 'danger for all' will not be supported. In these areas unrestricted access to a habitable room above the flood level and an emergency evacuation plan will be required".

The wording of Policy 4 is unambiguous that development of this nature within these flood hazard areas would not be supported. The final sentence does not act as a caveat to this point, merely instead outlining that how development may be made safe. To the contrary this sentence strengthens the unacceptability of development which would be single storey or not sufficiently raised. This approach is consistent with the Environment Agency's objection.

It is proposed that finished floor levels would be raised by 0.2m, which would result in the finished floor level of the dwelling being approximately 0.5m above Blazegate Road level due to changes in topography. The flood depths shown within Appendix B are relative to ground level as opposed to road level. Whilst the data underpinning the SFRA is broad, depths shown in Appendix B should be taken from the spot the location of development, not nearby road levels. Therefore, the increase in height relative to the road, whilst better than no alteration, would not be equivalent to an overall raise of 0.5m. For the purposes of the SFRA and Policy 4, without a comprehensive topographic survey to show otherwise, the increase in finished floor level is taken to be 0.2m.

The standing advice given by the Environment Agency is that finished floor levels should be raised above the maximum expected flood depths, shown here to be up to 1m. The submitted flood risk assessment has not demonstrated changes in the topography which would result in depths not reaching their maximum; and therefore, it must be assumed that this maximum depth is applicable here. As such, even if it was conceded that the raise in finished floor level is tantamount to a 0.5m raise, the finished level would still be 0.5m below flood depths. This is consistent with the approach taken in the Environment Agency's objection.

The advice given by the Environment Agency does not create allowances for the use of flood resilient construction, which it states should actually be used in conjunction with raised levels to ensure safety. Moreover, the wording of Policy 4 does not allow dispensation for flood resilient construction, instead placing assessment purely on flood depths relative to floor level. As such, even with the flood resilient construction proposed, which it must be raised at this time may effect the assessment as to whether the works exceed what would be expected of a conversion as opposed to a rebuild, the proposal would still be contrary to the advice given by the Environment Agency and Policy 4.

In any event, no flood risk evacuation plan has been provided, as requested by Policy 4. Regardless of discussions over finished floor levels, the proposal therefore would be contrary to Policy 4 in this regard also.

Part 7 of the Flood Risk Assessment outlines that IDB systems would prevent flooding on the site; however, as previously outlined, the SFRA considers these factors. Therefore, the conclusions and expected depths shown in the SFRA have already considered this as a factor and may not be dismissed out of hand as a result. Moreover, it should be acknowledged that since the flooding of the site would likely be tidal, then the usual pumping method employed by the IDB may be less effective, as the systems further down the line would also be inundated.

The points raised above have been large reaffirmed through the Environment Agency's objection (see in full above). In particular, the Environment Agency highlight that "the FRA does not propose adequate flood risk mitigation measures to ensure that occupants will remain safe in the event of a flood." The comments of the Environment Agency are clear that the level of mitigation and adaptation proposed is entirely inadequate here.

Accordingly, the proposal is considered to be contrary to the provisions of Policy 4 of the SELLP. While there is no need to apply the Sequential or Exceptions Test, Policy 4 is explicit that residential conversions of this nature in such a high-risk area should not supported. A lack of proper adaptation and mitigation has been demonstrated. Therefore, the proposal is unacceptable on flood risk grounds.

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.

An exemption statement has been submitted. All extensions would be on areas currently covered by hardstanding. Therefore, the proposal is considered exempt under the de-minimis exemption outlined part 4 of The Biodiversity Gain Requirements (Exemptions) Regulations 2024.

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 the defined settlement boundary. The development hereby proposed does not materially harm the amenity of nearby residents, and provides adequate parking. However, it directly conflicts with Policy 1, 4 and 23 of the SELLP due to the location outside of the defined settlement boundary and the lack of merit of the existing building.

Furthermore, while the provisions of Section 14 of the NPPF are noted, Policy 4 is explicit that change of use to self-contained ground floor residential accommodation will not be supported in areas at significant risk of flooding, such as this site. Therefore, even if the principle of the development could be supported, the onsite flood risk would prevent the safe use of the residential dwelling.

In this instance, these are significant material considerations that weigh against the proposal and as such, the planning balance is against 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 these factors into consideration, the proposal is considered to conflict with Policies 1, 4 and 23 of the SELLP, as well as Section 14 of the NPPF. There are no significant factors in this case that would outweigh the harm of the proposal; therefore, the planning balance is against the proposal.

Recommendation

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