

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H08-0852-25      **Applicant:** Mrs K M Baxter  
**Proposal:** Demolition of Existing Barns & Erection of 2 Dwellings  
**Location:** Belnie House Farm Buildings Belnie Lane Gosberton  
**Terminal Date:** 6th November 2025

### 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
- 10 Meeting Assessed Housing Requirements
- 11 Distribution of New Housing
- 17 Providing a Mix of Housing
- 28 The Natural Environment
- 29 The Historic Environment
- 30 Pollution
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards

### National Guidance

#### National Planning Policy Framework December 2024

- Section 2 - Achieving sustainable development
- Section 4 - Decision-making
- Section 5 - Delivering and sufficient supply of homes
- Section 9 - Promoting sustainable transport
- Section 11 - Making effective use of land
- 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
- Section 16 - Conserving and enhancing the historic environment

### Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0

HIGHWAYS & SUDS SUPPORT	0	0	0	1
RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	0	0	0	1

## CASE OFFICER ASSESSMENT

### Proposal

The application seeks full planning permission for the demolition of existing barns within the site and the erection of 2 dwellings. The dwellings are proposed to feature matching layouts and appearances, with gable end roof forms and side extensions featuring sloping roof forms. Although the specific materials are not yet confirmed, the dwellings are proposed to feature brickwork facades and aluminium windows and doors.

### Site Description

The application site comprises land at Belnie House Farm, which is located to the north of Belnie Lane, approximately 700m to the south-east of Gosberton. The site contains agricultural buildings which are proposed to be demolished. The site is mostly surrounded by agricultural fields; however, there are dwellings located to the south-east and south-west of the site.

The site is located outside any defined settlement limits as identified by the South East Lincolnshire Local Plan 2011-2036, and the accompanying policies map.

The site is partly within Flood Zone 3, as identified by the Environment Agency's flood risk maps.

### Relevant Planning History

H08-0970-24: (Prior Approval) Change of use of agricultural building to dwelling & removal of timber lean to - Change of use of agricultural building to dwelling - approved 14 January 2025

H08-0972-24: (Prior Approval) Change of use of agricultural building to two dwellings - approved 14 January 2025

### Consultation Responses

The responses received from consultees during the consultation period are summarised below. The responses can be viewed in their entirety on South Holland District Council's website.

Gosberton Parish Council: No objections.

Welland and Deepings Internal Drainage Board: The Board's Old Sea Dyke bounds the site along

the north-west and is afforded the protection of a nine metre byelaw distance. This byelaw prevents any new buildings, structures, fences, trees, hedging, planting, landscaping etc within nine metres of the top edge of the Board's drain without the prior written consent of the Board. I note that foul water is to be disposed of via a package treatment plant but I require confirmation as to where the treated effluent will be discharged. I am pleased to see that soakaways are to be used for surface water disposal.

Lincolnshire County Council - Highways and SUDS: Parking spaces and turning need to be detailed on the site plan

Lincolnshire County Council - Historic Environment: The applicant has not provided an assessment of the archaeological or heritage potential of the site, as outlined in the NPPF (paragraph 207). The brick built agricultural building seems part of a partially extant 19th century farmstead, and a non-designated heritage asset (NDHA) included within the HER: MLI122559 - Belnie House, Gosberton. The farmstead is composed of 'Loose courtyard with three sides of the courtyard formed by working agricultural buildings. The farmhouse is detached from the main working complex. The farmhouse is the only surviving historic structure. Located within a loose farmstead cluster'. The brick built agricultural building is very likely one of the associated working buildings. It is visible in the Ordnance Survey Second Edition (1888- 1913) map. These types of construction are highly distinctive buildings and hold local architectonic interest. 19th-century farmsteads hold local significant heritage value by preserving the local agricultural, architectural, cultural, and ecological history of the area, making them an important heritage asset for both current and future generations. In addition, it is included in the 'Building the Evidence Base for Historic Farmsteads in Lincolnshire'. This project mapped Lincolnshire's historic farmsteads (defined as those that pre-date the 2nd edition Ordnance Survey mapping of the early 1900s). Demolition will erase the original fabric of the brick built agricultural building. I recommend that if permission is granted, there be a condition for a mitigation strategy to effectively deal with this site. This will comprise a phased programme of mitigation work including, but not limited to, a level 3 historic building recording of the brick built agricultural building, in accordance with Historic England's document 'Understanding Historic Buildings: A Guide to Good Recording Practice'. This will enable the agricultural building to be recorded prior to conversion. This should be secured by South Holland District Council's standard conditions AR04 and is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29). Finally, considering the building significance and potential impacts to the setting, the SHDC Conservation officer must be consulted before a decision is made.

Ecology Officer: There has been sufficient evidence provided to determine this application and we are confident that 10% mandatory net gain can be achieved onsite. A BNG plan and HMMP will be required pre-commencement as well as an alteration to the BNG post-development plan map. The 3 proposed trees in the north corner of the site will need to either be removed (resulting in not achieving 10% net gain) or moved to land owned by the landowner not within the domestic curtilage of the dwelling if they wish for the trees to be counted as individual trees in the metric and not as vegetated garden (following guidance on page 58 of the BNG user guide). This will need to be altered on the post-development habitat map pre-commencement for transparency in the BNG application. We support all mitigation and enhancement recommendations provided in the PEA and further request that they be set as a condition at discharge. We request that greater provision for other bird and bat species is required to improve the biodiversity outcomes of the site and mitigate the loss of habitat post development. Therefore, we request that at least 2 integrated bird boxes and 1 integrated bat box are included in the dwellings.

Environmental Protection: No response received.

Lincolnshire Bat Group: No response received.

Cllr H J W Bingham: No response received.

Cllr J L King: No response received.

Cllr M A Geaney: No response received.

#### 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, 1 letter of representation has been

received.

- The site is outside a development boundary within an area defined as countryside. Would the site be a suitable site for housing with regards to the principles of sustainable development and the protection of the character of the open countryside.
- Is there an essential need for 2 large dwellings in the location which is not close to an established settlement where services and facilities are located? As a consequence, occupiers would be likely to have a high dependence on the use of motor vehicles to access local services no matter what distance of travel involved. This would increase carbon emissions in the area.
- 2 larger dwellings do not help the area with the shortage of affordable housing for first time buyers and young people.
- One of the buildings has a barn owl pair nesting during the season and also housing bats.

## Key Planning Considerations

### Development Plan

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

There are no adopted Neighbourhood Plans for the area within which the site is located.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

The main issues and considerations in this case include the following:

- Principle of Development;
- Design and Visual Impact;
- Impact on Heritage Assets;
- Impact on Residential Amenity;
- Highway Safety and Parking;
- Flood Risk;
- Biodiversity Net Gain; and
- Contamination.

These matters are assessed in turn below.

### Principle of Development

Paragraph 84 of the NPPF sets out that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

- "a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential building; or*
- e) the design is of exceptional quality, in that it:*
  - i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."*

Policy 1 of the Local Plan 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 any defined settlement boundary. The nearest settlement to the site is Gosberton, for which the settlement boundary is approximately 700m to the north-west of the site. Therefore, the site is within the countryside in planning policy terms. Part D of Policy 1 sets out that within 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.

It has not been demonstrated that residential development is necessary in this location; for example, in conjunction with agriculture or other rural based business. Moreover, the site is physically divorced from larger service settlements. Whilst there is a footpath on Spalding Road which leads towards Gosberton, it is likely that future occupants would be reliant on the use of private cars to access services and facilities. Consequently, the proposal does not accord with Policy 1 and would not normally be considered a suitable site for new housing.

The application is accompanied by a Planning, Design and Access Statement, within reference is made to the Class Q approvals as fallback positions. The Statement refers to approval H06-1043-21 as a fallback position; however, this approval relates to a different site and as such this is presumed to be an error. It is presumed that reference was meant to be made to prior approval H08-0970-24 which granted consent for 1 dwelling, and prior approval H08-0972-24 which granted consent for 2 dwellings.

Caselaw has demonstrated that Class Q consents are a legitimate fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998) EnvLR189*. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly, if the answer to the second question is "yes", a comparison must be made between the proposed development and the fallback use."

The notion of the Class Q fallback position was also comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council (2017)*. This case established that where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority. Therefore, where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could be allowed to proceed.

The local authority considers that there is a realistic prospect that the Class Q conversions (H08-0970-24 and H08-0972-24) could take place. Consent has recently been granted, and the developer has three years to complete the development. Therefore, it is necessary to consider if the current proposals offer either an enhancement to the setting or a reduction in density when compared to the fallback position. This is discussed within the remainder of this report.

## Design and Visual Impact

Paragraph 135 of the NPPF states that new development should function well and add to the overall quality of the area and should be visually attractive as a result of good architecture and appropriate

landscaping.

NPPF Paragraph 187b sets out the following:

*Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland.*

Policy 2 of the Local Plan 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.

Policy 3 accords with the provisions of Section 12 of the NPPF, 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.

The current proposals seek to demolish the existing buildings within the site and install 2 matching dwellings. For example, both dwellings would feature a gable end roof form and a sloping roofline on the proposed side extensions. The dwellings would each measure 11m by 13.7m, and 7.1m in height up to the roof ridgelines. The proposed materials are not indicated within the submitted elevation plans; however, the application form refers to facing bricks, tiles and aluminium windows and doors.

The submitted Planning, Design and Access statement fails to justify the design rational in terms of its appropriateness to this location. Notwithstanding this, it is considered likely that the design is based on the approved barn conversion that was allowed under approval H08-0970-24. For example, both dwellings would feature a gable end roof form and a side extension with a sloping roof form. Furthermore, the approved conversion was proposed to measure 10.8m by 14m, and 6.5m in height. As such, the proposed dwellings would be of a comparable scale and feature a similar roof form to one of the approved conversions within the site. There are some key differences though such as the inclusion of new brickwork and additional windows and doors, including a large glazed element on the south-eastern elevation.

In terms of the fallback position, the prior approval consents sought to retain and convert the buildings within the site, though partial demolition was proposed. It was considered that under the Class Q approvals, the proposed conversions would have resulted in an acceptable visual impact. For example, the building that was proposed to be converted under consent H08-0972-24 currently features a utilitarian appearance with steel cladding and brickwork facades on the lower parts of the elevations. Under the Class Q consent, it was proposed to retain the brickwork and to install larch vertical cladding above. A zinc standing seam roof was proposed and grey aluminium windows and doors. The larch cladding would add a rural character to the building, and this was considered to be appropriate for the area. The building that was proposed to be converted under consent H08-0970-24 features red brickwork facades that were proposed to be retained as part of the conversion. As set out previously, this building is identified as a non-designated heritage asset by Lincolnshire County Council's Historic Environment Team. Its retention was, therefore, considered to be appropriate.

One of the considerations for betterment is whether the new proposal would enhance the setting of the area. In this case, the site is located within a rural area, being mostly surrounded by agricultural land with some agricultural buildings and dwellings located to the south on Belnie Lane. Therefore, the site is within a countryside setting. Although the Class Q approvals would result in partial demolition, overall, the approvals would result in the retention of the form, siting and general appearance of the agricultural buildings within the site. This was considered to be appropriate for the rural and countryside setting in which the site is located.

Under the current proposals, the 2 dwellings would be located more centrally within larger residential curtilages. It is not considered that this would enhance the setting of the area. The increased residential curtilages could even potentially result in more visual harm as a result of an increase in residential paraphernalia that is often installed within gardens.

The building footprints of the 2 dwellings would be slightly smaller than the footprints of the Class Q conversions. For example, the 2 dwellings would each feature a building footprint of 150.7sqm,

whereas the Class Q conversions would feature 151sqm and 162sqm. As such, the reduction is minimal and it is not considered that this weighs sufficiently in favour of the proposals.

It is considered that through the siting, orientation, footprint and form of the proposed development, this would result in a more urbanising effect upon this part of the countryside than the Class Q approvals. This is considered to result in more harm to the character and appearance of the area than the previous approvals. Furthermore, the applicant has failed to demonstrate a clear or overriding justification as to why such a design would or should be considered acceptable in this location.

Whilst the proposed design bears some resemblance to one of the Class Q approvals, it is not considered to represent betterment over what has already been approved on this site, which was a more sympathetic and appropriate design in this rural and open countryside location and setting. As such, the proposal is considered to be contrary to the aims of Policies 2 and 3 of the Local Plan, and Paragraph 187(b) of the NPPF.

### Impact on Heritage Assets

Section 16 of the NPPF contains guidance as to how local planning authorities should assess proposals that could affect designated and non-designated heritage. For example, Paragraph 207 of the NPPF sets out the following:

"Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

Paragraph 216 of the NPPF sets out the following:

"The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset."

Paragraph 218 of the NPPF sets out the following:

"Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the record evidence of our past should not be a factor in deciding whether such loss should be permitted."

Policy 29 of the Local Plan sets out the following:

"Where a development proposal would affect the significance of a heritage asset (whether designated or non-designated), including any contribution made to its setting, it should be informed by proportionate historic environment assessments<sup>7</sup> and evaluations (such as heritage impact assessments, desk-based appraisals, field evaluation and historic building reports)"

As set out previously, Lincolnshire County Council's Historic Environment Team consider that the existing brickwork barn within the site is a non-designated heritage asset. There are no other known heritage assets on or next to the site. The Historic Environment Team consider that the barn appears to be part of a partially extant 19th century farmstead, and the building appears to be visible in the Ordnance Survey Second Edition (1888- 1913) map. The Historic Environment Team consider that these types of buildings are highly distinctive and hold local architectonic interest. 19th-century farmsteads hold local significant heritage value by preserving the local agricultural, architectural, cultural, and ecological history of the area, making them an important heritage asset for both current and future generations. Demolition will erase the original fabric of the brick built agricultural building. Therefore, the Historic Environment Team have recommended that if permission is granted, conditions should be included to secure a phased programme of mitigation works, including a level 3 historic building recording of the brick built agricultural building. With the inclusion of such conditions, it is considered that the proposal would accord with Policy 29 of the Local Plan and Section 16 of the NPPF.

### Impact on Residential 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; 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 Local Plan set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

Each of the dwellings features approximately 211sqm of internal floorspace. This far exceeds the nationally described space standard for a 2-storey 4-bedroom dwelling which recommends that between 97sqm and 124sqm is provided depending on the number of occupants. It is also considered that each of the dwellings would be provided with sufficient external amenity space.

The nearest dwelling to the site is Belnie House, which is located to the south-west of the site. There is approximately 10m between the rear elevation of Belnie House and the site boundary. Similarly there is approximately 10m between the rear elevation of the dwelling within the western portion of the site and the site boundary. No windows are proposed at the first-floor level on the rear of the dwelling. A close boarded timber fence is proposed between the site and Belnie House. Therefore, it is considered that there would not be an unacceptable degree of overlooking between the properties.

There would be approximately 13m between the proposed dwellings within the site. Various bedroom windows are proposed at the first-floor level and these windows would face towards the rear elevation of the proposed dwelling to the north-east. Whilst the bedroom windows would look onto the kitchen and lounge windows of the other dwelling, it is not considered that this would result in an adverse degree of overlooking between the plots.

On balance, it is considered that the proposed development would have an acceptable impact on the residential amenity of neighbouring dwellings and future occupants in accordance with the provisions of the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan.

### Highway Safety and Parking

Paragraph 116 of the NPPF sets out 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 would be severe, following mitigation.

Policy 2 of the Local Plan sets out 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 sets out 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 36 and Appendix 6 of the Local Plan, set out minimum vehicle parking standards. The standards require at least 2 spaces for dwellings of up to three bedrooms, and three spaces for dwellings with 4 or more bedrooms.

Lincolnshire County Council's (LCC) highways team have requested that the parking spaces and turning area within the site are detailed on the site plan. The team have not objected to the proposed access or queried the visibility splays for the site access junction. It is noted that the highways team did not raise any objections in terms of highway safety for the previous prior approval applications within the site. It is considered that there is sufficient room for parking and turning within the site for at least 3 parking spaces for both dwellings. Therefore, the proposal would be acceptable in terms of highway safety, in accordance with Policies 2, 3 and 36 of the Local Plan, and Section 9 of the NPPF.

### Flood Risk

Section 14 of the NPPF sets out guidance relating to how local authorities should assess and determine applications which are subject to flood risk concerns.

Policy 4 of the Local Plan allows for certain types of development within Flood Zones 2 and 3 in instances where specific criteria are met. The site is not within an identified hazard area as

identified by the SFRA.

The proposed development is classed as a 'more vulnerable' use, according to Annex 3 of the NPPF. As the site lies within Flood Zone 3 and would comprise a more vulnerable use, the proposed development is required to pass the sequential and exception tests. The application is accompanied by a Flood Risk Assessment (FRA), which contains sections relating to how the applicant considers that the proposed development passes the sequential and exception tests.

The NPPF requires the application of a sequential test to ensure that new development is in areas with the lowest probability of flooding. Paragraph 8.3.6 of the SFRA sets out that the search area for the sequential test should be the whole of the council area unless the functional requirements of the development justify a reduced search area. Notwithstanding this, National Planning Practice Guidance (NPPG) sets out that the sequential test should be applied proportionately, and the search area should always be appropriate to the nature and scale of the proposal (Paragraph 027a Reference ID:7-027a-20220825). The NPPG also sets out the following:

*Paragraph 27: "In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied."*

*Paragraph 27a: "For a non-major housing development, it would not usually be appropriate for the area of search to extend beyond the specific area of a town or city in which the proposal is located, or beyond an individual village and its immediate neighbouring settlements."*

Whilst a district-wide search would typically be required as the proposal is located within the countryside, it is recognised that there is fallback position in this case that would allow for the creation of 4 dwellings within the site if the prior approval consents were implemented and completed. Furthermore, as per the above referenced guidance, if it can be demonstrated that future occupiers can remain safe and that flood risk would not increase elsewhere as a result of the proposals, the sequential test need not be applied.

In terms of the exception test, Paragraph 178 of the NPPF requires the following to be demonstrated:

- "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."*

In terms of part a, the proposal would provide 2 dwellings which would provide a moderate contribution to the district's housing land supply. It is not considered that there are any notable sustainability benefits that would be provided to the community.

In terms of part b, the submitted FRA sets out that although the site is within Flood Zone 3, the probability of this development flooding from localised drainage systems is low. 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. Within the SFRA, areas across South Holland have been identified according to the level of hazard that is posed in terms of flood risk. Appendix C of the SFRA sets out guidance in terms of the minimum measures that are required according to what hazard category areas fall under. The site is not within a hazard rating area. As such, in this case no specific mitigation is recommended by the SFRA. The submitted Flood Risk Assessment does, however, recommend out that the finished floor levels should be set 0.3 above the surrounding ground levels.

According to the application form, the proposed means surface water drainage is via soakaways. Further details of the proposed drainage strategy would need to be secured as it is unclear if soakaways are feasible. A sustainable drainage strategy would be encouraged, and an alternative drainage strategy would only be permitted if it was demonstrated that a sustainable drainage strategy was infeasible. For example, if the ground conditions were not suitable for soakaway infiltration.

There is a lack of information relating to a district wide search for alternative sites to pass the sequential test and a lack of information to demonstrate sustainability benefits to the community. Notwithstanding this, it is considered that an appropriate level of flood risk mitigation is proposed and the development would remain safe from current and future surface water flood risk for the lifetime of the development. As such, it is considered that the proposal accords with Policy 4 of the Local Plan and the intentions of the NPPF in terms of flood risk.

### 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.

Unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

The application is accompanied by a BNG Assessment which sets out that the development should be able to deliver a gain of 10.52% in habitat units. The council's ecology officer has reviewed the submitted information and has set out that the BNG Assessment is acceptable in principle. The proposed trees within the northern corner of the site would need to be removed or moved to land not within the domestic curtilage of one of the dwellings in order for the trees to be counted as individual trees. The landscaping details can be secured through an appropriately worded condition. Furthermore, the proposed BNG measures can be secured through conditions.

The submitted information indicates that there are no protected species within the site and the council's ecology officer accepts this conclusion. Various measures are proposed within the submitted Preliminary Ecological Appraisal and the council's ecology officer has requested additional matures to ensure the proposal accords with Policy 28 of the Local Plan.

### Contamination

Policy 30 of the Local Plan sets out the development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon land quality and condition.

The council's environmental protection team have been consulted on the application to determine if any conditions are required in relation to investigate any potential contamination risks from the proposals. The environmental protection team have not provided a consultation response; however, it would be considered appropriate to include conditions requiring a contamination assessment in the interests of public safety and health.

## 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 site is within the countryside in planning policy terms due to its location outside of any defined settlement boundary. The countryside is the least sustainable location for development within the area's settlement hierarchy, as identified by Policy 1 of the Local Plan. The 'tilted balance' in favour of sustainable development is not engaged at the present time, as the local planning authority can demonstrate 5.5 years of housing land supply.

Whilst the proposal would be contrary to Policy 1, it has been necessary to consider if the current proposals would provide a 'betterment' on the approved Class Q conversions (H08-0970-24 and H08-0972-24). These approvals represent a valid fallback position. On this basis the appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' is relevant. In such instances where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could (and perhaps should) be allowed to proceed. However, this fallback position does not represent a fait accompli that any subsequent design or scheme should automatically be accepted.

In this case, whilst the proposed design bears some resemblance to one of the Class Q approvals, it is not considered to represent betterment over what has already been approved within the site, which was a more sympathetic and appropriate design in this rural and open countryside location and setting. As such, the proposal is considered to be contrary to the aims of Policies 2 and 3 of the Local Plan, and Paragraph 187(b) of the NPPF.

It is considered that the harm brought about by the development would not outweigh the benefits, given the fallback for the site already enables the development of up to 3 dwellings and the retention of a non-designated heritage asset. The approved conversions allowed for under the Class Q consents would allow for a more appropriate development which is in-keeping with and preserves the character of the area and surrounding countryside. As such, the planning balance is not in support of the development and the proposal is recommended for refusal.

## 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 into consideration these factors, the proposal is considered to be contrary to Policies 1, 2 and 3 of the Local Plan, in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). On this basis, the proposal is recommended for refusal.

## **Recommendation**

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