

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-1023-25 **Applicant:** Mr D Charlton

Proposal: Residential Development comprising 1 new dwelling and conversion and extension of existing agricultural building, demolition of existing agricultural building and proposed new farm access track

Location: Risegate House Farm Hedgefield Hurn Gosberton Risegate

Terminal Date: 17th December 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
23	The Reuse of Buildings in the Countryside for Residential Use
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 a 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	0

WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	2
BLACK SLUICE INTERNAL DRAINAGE BOARD	0	0	0	2
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	4

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for two dwellings. One of the dwellings is proposed through the conversion and extension of an existing agricultural building. Consent is also sought for the demolition of an agricultural building and the erection of a dwelling to the east. Permission is also sought for a farm access track that is proposed to be located near the eastern and southern edges of the site.

Site Description

The application site comprises land to the south of Hedgefield Hurn in Gosberton. The site is mostly surrounded by agricultural land; however, there is a dwelling to the west of the site (Risegate House). There is also a dwelling located approximately 100m to the east of the site (Crimond), and a dwelling located to the north of the site (Risegate Farm).

The site is outside to the settlement boundary of Gosberton Risegate, as identified by the South East Lincolnshire Local Plan (2019) and the accompanying policies map. Therefore, the site is within the countryside in planning policy terms.

The site is within Flood Zones 2 and 3, as identified by the Environment Agency's flood risk maps.

Planning History

H08-0512-24: (Prior Approval) Conversion of existing agricultural buildings to form 3 dwellings - approved 30 July 2024

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.

Black Sluice Internal Drainage Board: Please see attached guidance sheet which could apply to the site dependant on surface and treated water discharge along with any Byelaw consenting.

Welland and Deepings Internal Drainage Board: If at any point in the future soakaways are not used for surface or treated water disposal I would need to be reconsulted at that time.

Conservation Officer: We have no objection to this proposal. The proposal site is a Non-Designated Heritage Asset associated with Risegate House. Its significance lies in its character as a 19th century farmstead. The Historic Environment Record notes the regular courtyard with L-plan range plus detached buildings to the third side of the yard. The proposal retains the traditional barn and stables of the farmyard in the L-plan - this ensures the character of the NDHA is maintained. Although the removal of a later agricultural structure causes some minor loss, this is mitigated by the preservation of the existing barn and their plan. The proposed new building on plot 2 has been designed to compliment the surrounding agricultural structures. With a lower ridge height and eaves, the scale of the new building is expected to integrate well with the existing farm buildings. If the application is approved, we recommend the following conditions: 1. MD02 - for the barn conversion. 2. MD01 - for the proposed new build 3. Window and Door details, including cross sectional detail.

Lincolnshire County Council - Historic Environment: It is noted that the applicant has not provided an assessment of the archaeological or heritage potential of the site, as outlined in the NPPF (paragraph 207). The proposed development will comprise: 'Residential Development comprising 1 new dwelling and conversion and extension of existing agricultural building, demolition of existing agricultural building and proposed new farm access track.' Historic mapping information - OS Map 1892-1914 in the HER (Historic Environment record) confirms that the existing agricultural building to be converted is an extant part of Building record ML1122527 - Risegate House, Gosberton: Partially extant 19th century farmstead. Regular courtyard with L-plan range plus detached buildings to the third side of the yard. The farmhouse is detached from the main working complex. There has been a partial loss (less than 50%) of traditional buildings. Located within or in association with a hamlet. Large modern sheds are located on the site. The existing farmstead building on site are considered a non-designated heritage asset (NDHA) due to their distinctive construction. Documented examples predating the 1880s are rare, and farmsteads dating from 1880-1940 are referenced in Historic England's Agricultural Buildings: Listing Selection Guide (April 2011) and the Greater Lincolnshire Farmsteads Project (Historic England, 2015). These structures display highly distinctive architectural characteristics and possess notable heritage value. Nineteenth-century farmsteads contribute to local heritage by preserving the agricultural, architectural, cultural, and ecological history of the area, making them valuable assets for both present and future generations. Furthermore, these agricultural building are included in the Building the Evidence Base for Historic Farmsteads in Lincolnshire project, which mapped historic farmsteads predating the 2nd edition Ordnance Survey mapping of the early 1900s. Conversion will have a significant impact on any surviving original fabric of the farmstead 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 farmstead building. No below ground archaeological works are necessary, This will enable the farmstead building to be recorded prior to conversion. This should be secured by South Holland District Council's standard condition AR04 and is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29).

Lincolnshire County Council - Highways and SUDS: The visibility splays shown on drawing number: J2053B-PL-03 are incorrect and need to be in accordance with Manual for Streets. The 'X' distance needs to be 2.4 metres back from the nearside edge of the carriageway and the 'Y' distance needs to be within the existing highway limits or within the developer's control. Additionally, as the existing access is to serve 2no. plots, the first 10 metres of the access road needs to be as a minimum of 4.1 metres to allow the passage of two-way vehicular movements and therefore, this needs to be detailed on the drawing. The new access for the farm needs to be of a suitable width to accommodate the largest of farm machinery that will utilise this access. Therefore, please can the applicant revise the drawing accordingly.

Environmental Protection: I request a screening assessment form be completed and submitted with photographs at this location.

Lincolnshire Wildlife Trust: No comments or recommendations for the proposal.

Ecology Officer: There has been sufficient evidence provided for this BNG application and we are confident that 10% net gain can be achieved onsite for this application A BNG plan and HMMP will be required pre-commencement. The applicant has provided thorough ecological documentation

therefore in my judgement providing sufficient ecological data to determine this application. We support all mitigation and enhancement recommendations provided in the PEA and requested they be set as a condition at discharge. We request that at least 1 integrated bird box and 1 integrated bat box or bat tile are included in the development post development. We will require an enhancement plan to be provided pre-commencement evidencing where each enhancement will be placed onsite. Overall, the biodiversity assessment and metric calculations appear rigorous, and we can have confidence in their conclusions. In this case the metric indicates that 10% mandatory net gain can be achieved on-site with a predicted overall gain of 10.01% in Habitat units (increase of 0.1 units) and 17.23% gain in hedgerow units (increase of 0.07 units).

Lincolnshire Bat Group: No response received.

Gosberton Parish Council: No response received.

Cllr H J W Bingham: No response received.

Cllr M A Geaney: No response received.

Cllr J L King: 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, no representations from members of the public have been received.

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 main issues and considerations in this case include the following:

- Principle of Development;
- Design and Visual Impact;
- Impact on Heritage Assets;
- Impact on 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 Risegate, for which the settlement boundary is approximately 40m to the 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. In the absence of footpaths from the site, 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 Supporting Statement, within which reference is made to the previous Class Q approval H08-0512-24 as a fall-back position. The statement sets out that the applicant considers that the proposed development represents a 'betterment' compared to the Class Q approval.

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 conversion 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 (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping.

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, requiring development to feature 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 prior approval consent allowed for three detached dwellings, following partial demolition within the site. Plot 1 was positioned within the south-western corner of the site, plot 2 was within the south-eastern corner of the site, and plot 3 was positioned to the north. All of the approved dwellings featured gable end roof forms, with various pitches. Plot 3 comprised a longer building form, measuring approximately 27m in length.

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 dwellings located to the east, north and west. Therefore, the site is within a countryside setting. Although the Class Q approval would result in partial demolition, overall, the approval 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, an alternative site layout is proposed. For example, a new vehicular access is proposed within a more central position along the northern boundary of the site and a front driveway area is proposed for car parking. Under the approved prior approval scheme, two vehicular accesses were proposed, and car parking spaces were proposed next to each of the plots.

It is proposed to retain the existing building for plot 1 and most of the building that was plot 3. These buildings are proposed to be combined to form a single dwelling rather than two dwellings. The retention of this building is considered to be appropriate as the building is considered to be a non-designated heritage asset (NDHA). This shares some similarities with the prior approval design; however, the main differences include the following:

- A part of the eastern section of the northern building is proposed to be demolished. This area measures approximately 4.8m by 3.9m.
- A flat roofed extension is proposed between the south-western building and the northern building measuring approximately 2.8m by 3.9m. This element is proposed to feature vertical timber cladding.
- Additional floor length windows are proposed on the northern elevation of the northern building.

As the current application seeks full planning permission for the building conversion, Policy 23 of the Local Plan is considered to be relevant as this policy relates to the re-use of building within the countryside for residential use. The prior approval application was not considered against the requirements of Policy 23 as the policy was not relevant given that prior approval applications are assessed against the requirements of the Town and Country Planning (General Permitted Development) Order (as amended).

Policy 23 sets out the following:

"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."

It is considered that the proposed conversion of the buildings to form plot 1 would accord with the above referenced criteria. For example, only a small-scale single storey extension is proposed to link the two buildings for the form the dwelling. The extension is not considered to be significant, nor is it considered that any of the other external changes would result in significant building alterations, in accordance with part 1 of the policy. The building is considered to be a NDHA and as such the building is considered to have historic merit, in accordance with part 2. The proposal is considered to be in keeping with its surrounding and to contain a sympathetic design that is supported by the LPA's conservation officer, in accordance with parts 3, 4 and 5. As such, the proposal for plot 1 is considered to accord with Policy 23. It is considered appropriate to remove certain permitted development rights, as is allowed for by Policy 23 in the interests of preserving the character of the building.

The most significant change compared with the prior approval scheme is the proposal for plot 2. It is proposed to demolish the existing building within the site and to erect a new dwelling further to the east. By placing the dwelling further to the east and demolishing some of the internal buildings and structures, it is considered that this would open up views of the building to the west (plot 1), which is considered to be a NDHA. During the determination of the application, the siting of the dwelling for plot 2 has been revised to move the dwelling further to the south-east by approximately 2m. This change was made to enable more open views of the NDHA building to the west. The dwelling would also feature a slightly larger building footprint than previously approved (by approximately 45sqm). Notwithstanding this, it is considered that the proposed dwelling would feature a more suitable layout and appearance than the previously approved barn conversion. For example, the previously approved barn conversion featured an asymmetrical roofline that measured 4.8m up to the ridgeline. The building was not considered to be of particular architectural or historic merit. The proposed plot 2 dwelling would feature a symmetrical gable end roof form that measures 4.4m up to the ridgeline. As the proposed dwelling would be slightly lower in height and placed further to the east, it is considered that the siting and appearance is preferable as the proposal would allow for more views of the NDHA and an improved site layout.

The elevation plans for plot 2 have also been amended during the determination of the application in order to incorporate vertical cladding panels and to include a metal chimney flue rather than a brickwork chimney breast. The updates have resulted in changes to the placement of some of the windows; however, overall the appearance of the dwelling remains similar and it was not considered necessary to re-consult on the proposed changes. The building is proposed to feature a combination of brickwork, timber cladding and a pantile roof. The building is considered to be of a suitable character and appearance for the area. Combined with the siting of the building, it is considered that the proposal represents a betterment over the previously approved Class Q conversion. The proposed materials such as the brickwork and cladding are not yet confirmed. As such, further details relating to the materials would need to be secured via a condition.

The proposed development would result in larger residential curtilages than previously approved. As the proposal seeks to extend further into the countryside than previously approved, it is considered appropriate to limit certain permitted development rights for dwellings, in the interests of visual amenity.

Overall, it is considered that the proposal represents a betterment over the previously approved scheme for the site. As such, the proposed development would have an acceptable impact on the character and appearance of the area, in accordance with Policies 2 and 3 of the Local Plan, and Sections 12 and 16 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 and evaluations (such as heritage impact assessments, desk-based appraisals, field evaluation and historic building reports)"

As set out previously, both the LPA's conservation officer and LCC's Historic Environment Team consider that the building within the site that is proposed to be converted to form plot 1 is a NDHA. The building that is proposed to be demolished to facilitate the provision of plot 2 is not considered to be a NDHA. LCC's Historic Environment Team have requested that a level 3 historic building recording of the building is secured via a condition to accord with Paragraphs 207 and 218 of the NPPF and Policy 29 of the Local Plan. This has been agreed with the applicant's agent.

Impact on 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.

No windows are proposed on the side elevation of plot 2 and as such, it is not considered that there would be an unacceptable degree of overlooking between the two dwellings within the site as no habitable room windows face directly towards each other. Similarly, both dwellings would be provided with sufficient internal living space and external amenity space.

The nearest dwelling to the site is Risegate House, which is located to the west of the site. There is approximately 14m between the front elevation of Risegate House and the nearest elevation of plot 1. There would be a degree of screening between the dwellings from proposed planting and a fence along the western boundary. It is considered that there would be an acceptable relationship between the dwellings and that there would not be an unacceptable degree of overlooking. Further boundary treatment details can be secured through a condition.

As detailed above, the proposed development would not result in an unacceptable impact on the residential amenity of neighbouring dwellings or future occupants. As such, in amenity terms, the proposal accords 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 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 36 and Appendix 6 of the Local Plan, set out minimum vehicle parking standards. The standards require at least two spaces for dwellings of up to three bedrooms, and three spaces for dwellings with four or more bedrooms.

A front driveway is proposed from Hedgefield Hurn to serve the two dwellings. The site layout plan shows three parking spaces for each of the dwellings. The number of spaces accords with the recommendations of the Local Plan.

Lincolnshire County Council's (LCC) highways team requested an amended layout plan with sufficient visibility splays and for the access to be widened. An amended layout was subsequently provided showing appropriate visibility splays and the access to the proposed dwellings is proposed to be at least 4.1m for the first 10m. The highways team have not been re-consulted as amended plans were only received on 12 December and the application is due to be determined by 17 December. Furthermore, the amended plans are considered to be acceptable in terms of highways safety.

It is also proposed to install a new farm access track, which is located to the east of the proposed residential vehicular access. The new access is proposed to replace the existing farm access track which is located nearer to the existing buildings within the site. LCC's highways team set out that the farm access need to be of a suitable width to accommodate the largest of farm machinery that will utilise the access. The access is proposed to be 5m wide and this is considered to be wide enough to allow for large farm vehicles. The proposed site plan shows landscaping bunds on either side of the access; however, the plan does not confirm the height of the bunds nor does the plan label these as bunds. It is considered appropriate to include a condition requiring details of the bunds, including their proposed height, to be submitted and approved prior to their installation in the interests of visual amenity.

Therefore, the proposals would have an acceptable impact in terms of highway safety and would therefore accord with Local Plan Policies 2, 3 and 36, 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 2 of the Local Plan requires proposals to meet sustainable development considerations including in relation to sustainable drainage and flood risk (part 7).

Policy 4 of the Local Plan requires proposals in Flood Zones 2 and 3 to be supported by sufficient information relating to flood risks associated with the development.

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 three dwellings within the site if the prior approval consent was 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 two dwellings which would provide a moderate contribution to the district's housing land supply. The proposals seek to include soakaways which are recognised in the NPPG as a potential sustainability benefit. Furthermore, the proposals would reduce some of the built footprint within the site which could assist with managing surface water run-off within the site.

In terms of part b, 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 at 3.3mAOD as the average ground level is 3m AOD.

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.

The FRA lacks 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

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 (BNG) 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.

The current application is accompanied by a Preliminary Ecological Appraisal (PEA) and a Biodiversity Net Gain (BNG) metric calculation. The PEA concludes that protected species are not likely to be within the site and no further survey work has been recommended.

The BNG calculation indicates that the proposal can deliver an overall gain of 10.01% in Habitat units (increase of 0.1 units) and 17.23% gain in hedgerow units (increase of 0.07 units). The council's ecology officer agrees with the calculations and conditions have been agreed with the applicant's agent to secure the provision of BNG.

Contamination

Policy 30 of the Local Plan requires proposal not to be permitted if they would result in an unacceptable adverse impact upon the health and safety of the public or on land quality.

The application is not accompanied by any contamination assessment information. The council's environmental protection team have requested a contamination screening assessment form. As this has not been provided, a pre-commencement condition requiring the submission of contamination assessment information has been agreed with the applicant's agent.

Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

Although the proposal conflicts with Policy 1, it is considered that the proposed development would represent a betterment in comparison with the Class Q approval. As such, it is considered that the benefits of the proposal outweigh the conflict with Policy 1 in this instance. The proposed development is also considered to be acceptable in terms of other relevant considerations such as highway safety, flood risk and ecology.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

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

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

Human Rights

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

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

Conclusion

Taking the above considerations into account, the proposal is considered to accord with Policies 1, 2, 3, 4, 11, 17, 23, 28, 29, 30 and 36 of the Local Plan, along with the identified sections contained within the NPPF. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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