

**DECISION DELEGATED TO HEAD OF PLANNING**

**Application No:** H09-0473-25                      **Applicant:** Mr M Rumble

**Proposal:** Demolition of existing derelict dwelling & erection of detached 3 bed self build dwelling

**Location:** The Poplars Chapel Drove Holbeach Drove

**Terminal Date:** 29th August 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

22                      Replacement Dwellings in the Countryside

30                      Pollution

31                      Climate Change and Renewable and Low Carbon Energy

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 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

**Representations:**

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE	0	0	0	1

BOARD				
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application seeking permission for the demolition of an existing derelict dwelling and the erection of a detached dwelling at The Poplars, Chapel Drove, Holbeach Drove. It is proposed that the dwelling would be a self-build.

A 1.5 storey, three-bedroom dwelling, with a forward projecting two-storey gable ended northern section, is proposed. Two dormer windows are proposed within the southern section of the dwelling. It would have a depth of between 8.02m and 8.62m, and a width of 12.67m (rising to 13.6m when the overhanging roof is considered). The roof design is atypical, featuring a front eaves height of 2.85m, rising to 3.85m at the rear elevation. The maximum ridge height would be approximately 8.4m. It is proposed that the dwelling would be rendered white, with Marley Modern Roof Tiles, coloured grey. White UPVC windows, gutters and rainwater pipes are proposed, alongside white timber fascia and soffits.

### **Site Description**

The site is located outside any of the defined settlement boundary outlined in the South East Lincolnshire Local Plan, 2019, being sited approximately 250m south-west of Holbeach Drove. The site has a clear rural character.

Currently, the site is occupied by a derelict dwelling, with a static caravan to the rear. Google Earth imagery would appear to show that the dwelling has been derelict/heavily damaged since at least 2005.

### **History**

No relevant history.

### **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:

#### **South Holland Internal Drainage Board**

Outline that Land Drainage Consent would be required from the Board.

#### **Highway and Lead Local Flood Authority**

Additional information required - "The access needs to be upgraded to Lincolnshire County Council Specification and a note should be added to the proposed site plan".

#### **Lincolnshire County Council Historic Places Team**

"Thank you for consulting us on this. 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".

## Holbeach Parish Council

"Fully Support".

## Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

## **Key Planning Considerations**

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity

## **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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036 (SELLP, adopted March 2019, forms 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.

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.

## **Planning Considerations**

### Principle of Development and Sustainability

#### *Policy Context - Spatial Strategy*

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.

However, the site in this instance is located outside of any settlement boundary as set out in the South East Lincolnshire Local Plan (2019) (SELLP). Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres,

Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". Therefore, the application site in this instance is considered to be within the countryside in planning policy terms.

Policy 1 of the South East Lincolnshire Local Plan (2019) (Spatial Strategy) states that development within the countryside is limited to that where it "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". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

Expanding upon when a development can be considered to necessitate a Countryside location, the supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)".

The proposed development seeks permission for an independent dwelling and as such, does not seek permission for development outlined within the above and as such, is not considered to meet the provisions of either of these policies.

Notwithstanding the above, Policy 1 is supported by Policy 22 of South East Lincolnshire Local Plan (SELLP) 2019, which relates to Replacement Dwellings in the Countryside. This policy states that "Proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that six criteria is met. These are listed below:

- "1 - The residential use of the building to be replaced (the original building) has not been abandoned.
- 2 - The original building is permanent, has not become derelict and is not the result of a temporary permission.
- 3 - The original building is not of architectural or historic merit and is not capable of repair.
- 4 - The replacement building is of a high standard in terms of architectural detailing and materials of construction.
- 5 - The replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality.
- 6 - The replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency."

#### *Policy Context - Need for housing, including self/custom build dwellings*

The National Planning Policy Framework, (NPPF) (December 2024) outlines, within Paragraph 61, that "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay".

Para 73 of the National Planning Policy Framework (December 2024) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. This states that "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly". This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The proposal is for a self-build dwelling. Pertinent to housing need is Section 2 of the Self and Custom Housebuilding Act, 2015, which states that: "an authority to which this section applies must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period." To this end, and as reaffirmed within Footnote 28 of the NPPF, the Planning Authority are obliged to give enough suitable development permissions to meet identified demand.

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals. The definition contained within the Act is as follows:

"In this Act "self-build and custom housebuilding" means the building or completion by:  
(a) individuals,  
(b) associations of individuals, or  
(c) persons working with or for individuals or associations of individuals,  
of houses to be occupied as homes by those individuals."

It should be noted here that, whilst the Authority have no information to refute that the application would be a self-build, no guarantees of the self-build nature of the proposal, in the form of a Section 106 legal agreement, have been put forward at this time. Confirmation of the self/ custom build nature of the scheme should be secured via a relevant legal agreement in the event permission is to be granted, in accordance with the LPA's standard procedure.

Whilst the SELLP does not have a policy dedicated to self-build proposals, Policies 10, 11 and 17 provide a strategy for the provision of these dwellings. Paragraph 5.3.5 of the SELLP states:

"Within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met."

Policy 17 expands upon this briefly, outlining that the "Local Plan will also seek to meet the housing needs of (Ä?ç?) custom and self-builders as they may come forward." Paragraph 5.9.4 of the reasoned justification for this policy reiterates that "opportunities for infill development within Settlement Boundaries can also meet the known interest registered by self and custom house builders".

In other words, proposals for self-build dwellings should be consistent with the Development Plan as a whole and appropriately located within settlement boundaries.

This approach has been confirmed within Appeals APP/A2525/W/23/3319481, APP/A2525/W/24/3343297 and APP/A2525/W/25/3359058 amongst others. Within these previous appeals, it was outlined that proposals which break from the spatial strategy of the SELLP would require significant justification, including evidence that a search for alternative sites within settlements has been conducted. No such justification or search for sites has been presented to the Council at this time.

In this vein, while weight is given in favour of proposals for self and custom builds, these proposals must be consistent with the provisions of the SELLP as a whole and cannot be used as the sole justification for divergence from policy. The weight given in favour of proposals for self build dwellings is tempered accordingly.

#### *Assessment of Principle*

As outlined previously, replacement dwellings in the Countryside may be considered permissible in principle, subject to an assessment against the criteria outlined in Policy 22 of the SELLP.

Assessing the proposal against this Policy, the following is considered:

1 - The description of development, and submitted Design and Access Statement, explicitly state the building is derelict. As outlined in Trustees of the Castell-y-Mynach Estate v SSW (1985), whether a proposal is abandoned is dependent upon four criteria, namely: the physical condition of the building; the period of non-use; whether there has been any intervening use; and the owner's intention as to whether to suspend the use or cease it permanently. With regards to owner's intention, in Hughes v SSETR (2000), the Court of Appeal held that the test of the owner's intention should be objective, the view to be taken by a reasonable man with knowledge of all the relevant circumstances. The owner's intention shall not however be elevated to a paramount status, or

conversely subordinate other relevant considerations. The weight to be attached to each of the four criteria when determining abandonment is a matter for the decision taker. It is important to note that no one of the four criteria established in Castell-y-Mynach can be decisive.

The physical condition of the building is poor, with it being stated within the Design and Access Statement that the building is derelict and that the "existing dwelling is structurally unsound and is unable to be renovated to today's housing standards." To this end, the proposal would fail the first test. However, the plot itself has been occupied for a period of five years, primarily via a static caravan, but also in part utilising the remaining facilities of the derelict house. No exact details of this arrangement have been given, although this would appear to indicate that there broad residential use of the site has not ceased. Moreover, there is a clear intention to utilise the property for residential purposes, as evidenced by the continued occupancy of the site and the fundamental point of submitting an application for a residential dwelling.

To this end, it is considered that the residential use of the site is not abandoned, despite the physical condition of the building, and that the proposal passes the tests outlined in Castell-y-Mynach.

2 - It is clear that the original building on site has becoming derelict. The description of the proposal states: "Demolition of existing derelict dwelling". This description is also outlined within the submitted application form and the accompanying Design and Access Statement also outlines the following: "The existing derelict dwelling is a permanent structure but now has no roof covering, windows or doors and is in a dire state of disrepair. Following attempts to repair and bring the dwelling back into use by the applicant, it is evident that this is not possible. The existing dwelling is structurally unsound and is unable to be renovated to today's housing standards".

The submitted information clearly therefore demonstrates that the building is derelict. By the admission of the Applicant therefore, the site is considered derelict.

In any event, from the Officer's site visit, it is abundantly clear that the dwelling is derelict. Most walls have collapsed in some capacity, and vegetation is growing on formally internal walls (which are exposed to the elements in themselves). No roof is present on the majority of the dwelling. These issues have not occurred as a result of recent events, but have progressively worsening, with the site having been in a state of disrepair for a notable period of time. Therefore, irrespective of the Design and Access Statement confirming dereliction, the site would still be considered derelict as a matter of planning judgement.

For these reasons, the proposal clearly conflicts with this criterion of Policy 22.

3 - It is hard to tell whether the original building was of any architectural or historic merit due to the state that it is in currently. In any event, the existing building, by virtue of its dilapidated state, is of no architectural merit.

4 - The replacement dwelling is not considered to be of a high standard in terms of architectural detailing and materials of construction. The design itself is atypical, with a severely sloping roof along the principal elevation which appears unsightly and alien. The dormer windows are also fairly irregular due to their increased height and the low positioning of the windows. There are no additions which are of high architectural detailing when assessing the elevational plans which have been provided. Solar panels are proposed, albeit these are only on the rear and side of the dormer window and would not be visible from the highway to warrant a high standard of architectural detailing.

Alongside this, the materials that are proposed are also typical and as such are not of a high standard. The proposed use of white render for the walls, Marley modern roof tiles, white uPVC windows and gutters are conventional and would not appear out of character in a conventional modern estate. This typicality prevents the proposal from achieving the high quality of design/material selection required under criterion 4.

The proposal therefore is contrary to criterion 4 of Policy 22, in that the proposed design is not of a high standard.

5 - The proposed dwelling would be sited on a similar footprint to the host property, albeit the proposed dwelling is slightly shorter than its predecessor.

6 - As the proposal is derelict, it cannot accurately be said if the proposal would result in an increase in floor area, as the previous scale of the dwelling cannot be truly identified. On this basis, it has not been evidenced that the proposal would conform criterion 6.

In light of the above, the proposed development conflicts with criteria 2, and 4, with the potential for further conflict to occur under criteria 6 of Policy 22, as the original building is clearly derelict and is not of a high standard in terms of architectural detailing and materials of construction. In this instance, the proposal is considered to be unacceptable when viewed in principle, being at conflict with both Policy 1 and 22 of the SELLP.

As discussed above, the weight attributed to the self-build nature of the dwelling is proportionate. The provisions of Policies 10, 11 and 17 of the SELLP are such that the development should still be directed to within settlement boundaries in the first instance. Accordingly, the weight attributed to the self-build nature of the proposal would not be sufficient on its own to justify the principle of a residential development on this site.

It should be noted that the Council's 5 Year Housing Land Supply Assessment and the inset maps supporting the SELLP identify a number of single plot and small sites, not identified for a particular dwelling type or sector. It would be unlikely that at least some of those sites could not be considered as being suitable for self-build housing particularly given the straightforward requirements for such sites to be considered as a serviced plot of land as defined in the Self-build and Custom Housebuilding Act 2015 and explained in the PPG. No such evidence of a search for sites within such allocations or within the broader settlement boundaries has been provided.

The proposal therefore is considered to be contrary to the provisions of Policy 1 and 22 of the SELLP. The weight attributed to the self-build nature of the proposal is minimal, and would not outweigh the fundamental policy conflict outlined above. The principle of a residential development on the site is not considered acceptable.

#### Layout, Design and Consideration of the Character and Appearance 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.

The measurements of the replacement dwelling (outlined previously) are considered to be acceptable and proportionate in relation to the area. Whilst it is an increase in relation to the existing dwelling on site, the extra space would be put to use for the residents living within the property.

Internally, the hall would provide access the living area on one side and an open place kitchen diner on the other. A large WC and technical room would also be located on the ground floor. The stair case would lead to three bedrooms, shared bathroom as well as an en-suite and dressing area for Bedroom 1. All rooms feature adequate windows to allow for natural light, the layout flows well and meets the Nationally Described Space Standards.

The replacement dwelling would be constructed from white render for the walls, Marley modern roof tiles, white uPVC windows and gutters and white wood fascia's and soffits. Whilst the materials are standard and typical for most new dwellings, as the proposal must be of a high standard in terms of materials for construction this would not be considered to be in accordance with this and therefore is not acceptable in this instance.

As outlined previously, the roof slope and dormer windows are both atypical features, which provide an unevenness to the appearance of the dwelling. The gable ended forward projecting element contrasts with the wider design, reducing the symmetry of the dwelling whilst also clashing with the low eaves height, creating an unattractive frontage. Whilst this may be comparably an improvement over the existing derelict site, the provisions of Policy 22 of the SELLP, which this application must be judged in context of due to its nature as a replacement dwelling, requires a high quality design, as opposed to merely an improvement.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character or appearance of the area and would therefore not be in accordance with Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

#### Impact on Residential Amenity/ Land Users

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.

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.

Due to the relative isolation of the dwelling, the proposal would have no detrimental amenity impacts. No side elevation windows are proposed, meaning views obtained from windows would be of either the public realm or of rear fields. No overshadowing would occur due to the significant distance to the site's boundaries.

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. Adequate parking has been provided in this instance.

The Highway Authority has requested that a note be added, requiring the access to be upgraded to LCC specification. Due to the unacceptable principle of the dwelling, this amendment has not been sought. However, beyond this, the proposal is not considered to have an unacceptable adverse impact upon the highway network or 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.

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.

Within the SFRA the site is outside of any identified hazard zone.

The site is in Flood Zone 3; however, Paragraph 174 of the NPPF is explicit that the "strategic flood risk assessment will provide the basis for applying (the sequential) test." To this end, as the proposal is outside of any identified hazard zone, the proposal is considered to pass the sequential test. In any event, as the proposal would relate to a replacement dwelling (however unacceptable in principle it is judged to be), fundamentally the proposal could not be located elsewhere.

In any event, assessing the proposal against the provisions of the exceptions test, the proposal is considered acceptable. The proposal would be safe for its lifetime as finished floor levels would be raised by 300mm. The benefits of a single self-build dwelling, whilst minimal, would outweigh the negligible flood risk identified on the site.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to 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.

For applications that are submitted prior to the introduction of this requirement, the development would exempt from the mandatory 10% requirement and as such, the Biodiversity Gain Condition would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

When taking the above into account, the development in this instance is exempt from the statutory 10% Biodiversity Net Gain requirements, as it relates to a self-build dwelling. However, it should be noted that a legal agreement would be sought in any event that a favourable outcome was reached.

### **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 existing dwelling is derelict. As such, the proposal would directly conflict with Criterion 2 of Policy 22 of the SELLP. Likewise, it is considered that the proposed design would not be of a sufficiently high quality as to meet the requirements of Policy 22. To this end, the proposal is not considered to represent an appropriate replacement dwelling, and therefore, the proposal is contrary to Policies 1 and 22 of the SELLP. As such, the planning balance is against the proposal.

### **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 be in conflict with Policies 1, 2, 3 and 22 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). There are no significant factors in this case that would outweigh the identified harm.

### **Recommendation**

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