DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0554-24**	**Applicant:**	**Seagate Homes**
Proposal:	Proposed Residential Development comprising 21 dwellings and associated roads and footpaths		
Location:	Land Off Damgate Holbeach Spalding		
Terminal Date:	17th January 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
05	Meeting Physical Infrastructure and Service Needs
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

5 Delivering a Sufficient Supply of Homes
8 Promoting healthy and safe communities
11 Making effective use of land
12 Achieving well designed and beautiful places
14 Meeting the challenge of climate change, flooding and coastal change
15 Conserving and enhancing the natural environment
16 Conserving and enhancing the historic environment3

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	1	0	0	6
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

Proposed Residential Development comprising 21 dwellings and associated roads and footpaths.

The application seeks full planning permission for 21 dwellings and includes a new vehicular access from Damgate. The scheme includes 18 semi-detached units and a terrace of 3 units. The scheme includes a mix of house types.

Site Description

The site is located to the south east of the centre of Holbeach, outside of, but immediately adjacent to the settlement boundary. Damgate is on the western boundary of the site. A consented development exists to the immediate north and east. There is a tree line and track to the south of the site, part of which is outside the red line boundary. The site is not located in a conservation area or near any listed buildings. An IDB drain exists along the western boundary which requires a 9m easement over which development cannot occur. An access way traverses this.

The layout is that of a cul-de-sac with no access to the adjacent development behind.

History

No planning history to the site itself but relevant planning history is attached to the development to the immediate north of the property.

Land to the immediate north of the application site

H09-0332-16 - Full Application - Residential development - erection of 188 dwellings (approved 3rd May 2018).

H09-0523-20 - Details of conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14,15,16,17,18,19,20,21,22,and 23 of H09-0332-16. Approved September 2020.

H09-0230-21 - Section 191 Lawful Use Certification - Section 191 - The implementation of planning permission H09-0332-16 for residential development on land adjacent to Dam Gate, Holbeach, by works to lay out an access road and foundations for a garage. Approved 23rd March 2021.

H09-1081-19 - Modification of 106 agreement to reduce the amount of affordable housing from 33.3% to 25% (Planning Approval H09-0332-16). Non determined 20.01.2023.

H09-0287-24 - Residential development - Erection of 188 dwellings - approved under H09-0332-16. Modification of Condition 2 to allow amendments to previously approved plans. Approved 8th August 2024.

Consultation Responses

Lead Local Flood and Highway Authority

Response dated 21.11.24

They have not carried out the amendments requested in terms of the adjacent Section 38 site. However, it is not something we can refuse it on as we must look at this site independently.

Earlier responses

More emphasis on street trees required.

Secure cycle parking for each dwelling

Pedestrian connections required to the adjoining Seagate homes development
Concerns regarding tandem spaces.

Section 38 drawing required including dimensions of carriageways and footways.

Proposed drainage is not a SuDs scheme, this is a major scheme and SuDs is required.

Management and maintenance proposals required, overland flow and flood flow path details required.

Discharge agreement from the IDB required.

Floor levels should be a minimum of 1m above existing ground levels for flood mitigation, needs to ensure that does not have a knock on effect on the surrounding properties/land.

NHS

Contributions via a S106 agreement of £660 per dwelling is requested for NHS infrastructure.

Environment Agency

Response dated 21 November

The Environment Agency are satisfied with the current flood risk mitigation proposed, which includes the raising of finished floor levels 1.0 metre above the existing ground level, which we recommended to be secured via a planning condition, should planning permission be granted. If FFLs of 1.0m above the current ground level were not acceptable (for other planning reasons) and this mitigation could not be implemented, then we would change our advice to one of an objection, as the proposal would not meet part b of the exception test.

Our advice on this application, outlined in our previous letter dated 15 July 2024 relates to part b) of

the exception test as outlined in paragraph 170 of the National Planning Policy Framework, which requires the applicant to demonstrate, via a site-specific flood risk assessment, that the development will be safe, without increasing flood risk elsewhere. Paragraph 171 of the NPPF makes it clear that both elements of the exception test must be passed for development to be permitted. Therefore, it is for your Authority to consider whether part a) of the exception test has been satisfied and whether the development would provide wider sustainability benefits to the community that outweigh the flood risk.

The EA notes the submitted flood risk assessment states the site has a low probability of flooding and is considered to pass the Sequential Test. However, the EA state:

The submitted FRA has stated that the site is not at risk from the 2115 1%/0.5% event; however, as shown in Appendix A of the South East Lincolnshire Strategic Flood Risk Assessment (and Figure 3 in the FRA), the site is at risk during this event. The site has a hazard classification of 'Danger to Most' (includes the general public) and could experience flood depths between 0.5 - 1.0m arising from a breach in the defences during a flood that has a 0.1% chance of occurring in any one year up to 2115.

As you will be aware, paragraph 168 of the NPPF outlines that development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. It is for your Authority to determine an appropriate area of search and to decide whether the sequential test has been passed, with reference to the information you hold on land availability and to request the applicant, if you consider appropriate, to identify any other 'reasonably available' sites which are on the open market and to check on the current status of identified sites to determine if they can be considered 'reasonably available'. Should you consider the sequential test has not been adequately applied or passed, we consider that these would be appropriate grounds for refusal in relation to flood risk.

Therefore, we are satisfied that the flood risk mitigation measures are satisfactory in relation to part b) of the exception test, but, whilst the following issues fall outside of our remit, if you consider that the exception test has not been passed with regard to part a), or that the sequential test has not been appropriately applied/passed, the Environment Agency considers these appropriate flood risk reasons for refusal. For clarity purposes, our advice relates solely to the risk of flooding from fluvial and tidal sources and does not relate to flood risk from any other sources.

Response dated 15 July 2024

A condition requiring Finished Floor levels to be 1 metre above the existing ground levels required, plus flood resilient construction to 3.5m AOD, and above 0.6 metres above the finished floor level.

Informatives are suggested.

Internal Drainage Board

The site is within the Internal Drainage District (IDD) of the South Holland Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.

Byelaw 3 - discharge of water to a watercourse (treated foul or surface water) consent required and is under review via reference 24_27642_C.

Section 23 Land Drainage Act 1991 - alteration of a watercourse - consent required and is under review of application 24_27643_C).

Byelaw 10 - Works within 9 metres of a Board maintained watercourse - consent required and under review of application 24_27644_C).

Board Maintained watercourse (DRN197P0502 - Brick Pits Drain) adjacent to the site boundary and that works are proposed to alter this watercourse including the installation of a culvert to provide access from Damgate.
I also note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the southern site boundary. Whilst not currently proposed, should the

applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). The Board recommends that adequate space (3-5 metres) is left flat and free from obstruction adjacent to the riparian watercourse in order to enable maintenance by future riparian owners or a designated maintenance company/contractor.

Natural England

No objection. Proposal will not have significant adverse impacts on statutory protected nature conservation sites or landscapes.

Lincolnshire Wildlife Trust

Holding objection. Further information on Biodiversity Net Gain required, existing submission is not adequate.

LCC Historic Environment

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.

Anglian Water

No assets owned by Anglian Water or those subject to an adoption agreement within the development site boundary.

Foul Water

The foul drainage from this development is in the catchment of Holbeach Water Recycling Centre that will have available capacity for these flows.

Holbeach is within the acceptable parameters and can accommodate the flows from future growth.

Used Water Network

The developer should serve notice under Section 106 of the Water Industry Act 1991 if they wish to connect to Anglian Water's sewerage network. An informative is suggested.

Surface Water Disposal

SuDs is preferred method of surface water disposal.
Seek advice of Lead Local Flood Authority.

Police

No objection. A well laid out development making effective use of a cu-de-sac design that has been proven to help reduce crime and disorder and enhance social cohesion. Detailed designing out crime comments provided.

Ecologist

Initial Response

BNG related documents supplied with this application are insufficient to adequately assess the calculation of baseline and post-intervention biodiversity units for this development. The submission of the actual Defra Statutory Metric used with habitat classification and condition assessment criteria information entered (baseline and post-intervention values) is required. Concerns that the baseline habitat map may be lacking sufficient detail, as the photos included within the PEA suggest that there are some areas of young scrub, small trees, and tall ruderals existing on-site, which are not represented in the habitat map. (The map depicts the entire area as consisting of "other neutral grassland").

Response dated 19 July

BNG Metric required. Will trees be planted via a private firm to maintain landscaping? Will they be under tenure of homeowners?
There are a number of trees within frontages and back gardens of the houses which accrue biodiversity area. New guidance is clear that new trees and gardens and tenure of landowners cannot be 'counted' in the metric, because they cannot sure their maintenance for 30 years.
Species rich nature hedgerows are similar concerns. It is unrealistic to maintain them by residents. The linear feature should be re-classified as a "native" hedgerow in the metric. Residents will be able to legally cut down the hedgerow.
The condition assessments used in classifying habitat parcels in the metric required.

Response dated 5 August

The metric submitted has errors associated with calculations of trees. All new tree plantings are counted as "small". Tree area values are recorded as "medium" and require correction. No trees within private curtilage of the dwellings can be counted in the metric to secure the 30 year period.

Development is 1.42 or more area-habitat units in deficit. Some missing scrub tree planting missing in the middle of the site, they are not in the metric. This increases the deficit to -2.43 units.

Error in the hedgerow calculations - because a 'species'rich hedgerow cannot be secured if they fall within private homes, and must be counted as native hedgerows. A 10% BNG will be achieved once corrected though.
Price for grassland biodiversity is £22500, so £54,675 is required to secure the deficit units.

Applicants will need to submit evidence for ability to meet this mandatory requirement in a biodiversity net gain pre-commencement, and habitat management and monitoring plans describing the management and monitoring of on-site biodiversity gains over 30 years.

In addition, the consultee comments from the South Holland Drainage Board make it clear that the development will impact the ditches/watercourses adjacent to the site. Therefore, the applicants should also assess and report the condition of the watercourses in the metric, and then include watercourse/ditch management information in the BNG gain plan pre-commencement to achieve a 10% net gain in watercourse units. Reporting the baseline watercourse information is required pre-determination.

Response dated 20 August 2024:

An updated BNG metric was submitted together with amended plans, recalculating the baseline and post development biodiversity values based on updated/correct guidelines, they incorporated additional tree planting onto the public green space on-site, they incorporated additional tree planting and neutral grassland habitat creation off-site, and they have incorporated watercourse improvements on the ditch habitats off-site.

Due to the complexity and significance of off-site habitat creation/enhancement, the applicants will have to prepare and submit a habitat management and monitoring plan to be approved by the authority pre-commencement, which will need to be secured via a Section 106 planning obligation with the authority, or by a conservation covenant with another nationally registered "responsible body" pre-commencement. The tree planting off-site is scheduled to be completed 2 years in advance of the other habitat creation/enhancement works. If the landscaping and off-site habitat creation/enhancement is to be completed within 1 year of the end of the agreed building work, the off-site tree planting should have been completed 2 years prior to this.

SHDC Tree Officer

The trees are largely on the proposed development side of a ditch and are mainly ivy-covered hybrid black poplar and likely to be white willow, with an understorey of occasional hawthorn, holly, yew and laurel. A number of the willows could do with having horizontal branches reduced back which overhang the adjacent farm roadway to the south. At some stage the willows may require pollarding to prevent them splitting. They are likely to be a haven to species such as little owls, that often live in cavities in white willows. The poplars are relatively young trees, should they be heavily reduced or topped the re-growth is likely to require cutting back every seven years or so.

The belt of trees is a very noticeable feature for miles around and helps soften the edge of the development making it blend into the surrounding landscape. Practically it will be an effective wind break and help to prevent any spray drift from the adjacent agricultural land.

The hawthorn hedge adjacent to the waterfilled ditch/drain on the western perimeter of the site was considered good for wildlife, growing through it is a further row of young ivy-covered hybrid black poplar. One weeping willow was noted in the southwestern corner. Potential management methods were discussed. Any pollarding/topping is likely to lead to very vigorous re-growth which will require shortening back on a regular basis. The trees and hedgerow along this boundary were considered a positive feature to a potential development, with an entrance drive/roadway through the middle the trees which form a screen from Dam Gate to give a feel of secluded exclusivity to the development, rather than the usual rather ordinary mown lawn and 'open driveway' to the main road.

Pollarding trees tends to weaken their structure and is rarely recommended for species other than willows. Re-growth after pollarding is generally vigorous dense compensatory growth, which grows around the edge of the branch cut, and is only weakly attached,(sometimes rot enters the cut and weakens it too) hence the need to keep trimming back. Selective reduction to existing growth points is a more sympathetic management tool to make a tree smaller, the tree tends to channel its energies into the existing branch framework rather than produce copious new shoots.

The ivy may need some management, particularly if the trees are reduced in size. Once ivy grows in the branch framework it adds extra weight to the structure of the tree which it is not designed to have and can increase the wind sail effect.

A nine-metre easement lies adjacent to the drain which encompasses the land with the poplar trees. A similar easement is present adjacent to the southern boundary. Currently the easement is un-cut semi -improved neutral grassland, immediately noticeable was false-oat grass (Arrhenatherum elatius), cocks-foot grass (Dactylis glomerata) , Yorkshire fog (Holcus lanatus) with some patches of creeping bent (Agrostis stolonifera). A Roesel's bush- cricket could be heard calling in the long grass. A noticeable patch of tufted-vetch (Vicia cracca) was present in the southern sward.

Management of such grassland was discussed to improve its floristic species diversity, using techniques to reduce the nutrients in the soil and the dominance of the tougher grasses.
Such as the introduction of yellow rattle (Rhinathus minor) a plant parasitic on grasses, and the removal of arisings when the grass is cut to reduce the build-up of nutrients.

Serious consideration was given to the retention of the sward along the southern and western borders of the potential development site as a grassland wildlife site, of particular benefit to invertebrates, with a footpath down it, making it ideal as a dog walking area. This would leave a buffer between the rear fence line of the proposed dwellings and the tree line, reducing the need for reduction of the trees and consequential cyclical management. Ideally the footpath would be close to the new domestic fence line to leave a wider area to be managed for wildlife purposes and discourage deposits from over the fence, it would also act as a fire break. Potentially the sward would link up to the pond on the adjoining site, making a significant wildlife corridor. Scallops of the sward could be cut and seeded with appropriate native wild- flower mixes to encourage diversity and pollinators. It is strongly recommended that at least a couple of metres width are maintained as low cut grass adjacent to the footpath, to facilitate its potential use as a dog walk area and reduce any fire risk. The longer grass could be cut to no lower than 15 centimetres high in early spring as it starts to grow. Then much of it left to grow uncut until late August early September, to enable established plants to seed, then to be cut again at no lower than 15 centimetres the arisings being moved from site, to reduce nutrient accumulation. (The 15 centimetres should enable some invertebrate species which pupate in the grass stems a chance to survive.) A few areas near the hedge line tree belt being left as long grass throughout the year for invertebrates to definitely be able to over winter in.

Possible species to introduce to increase floristic diversity, and add colour and interest to the area:
Where shaded near hedge line:
Red campion (Silene dioica).
White campion (Silene latifolia).
Nettle-leaved bellflower (Campanula trachelium).
Green alkanet (Pentaglottis sempervirens).
Yellow archangel (Lamiastrum galeobdolon). MUST BE NATIVE VERSION NOT THE ONE WITH VARIEGATED LEAVES.

Greater stitchwort (Stellaria holostea).

Away from hedge line:
Ox-eye daisy (Leucanthemum vulgare).
Lady's bedstraw (Galium verum).
Chicory (Cichorium intybus).
Viper's bugloss (Echium vulgare).
Common knapweed (Centaurea nigra).
Greater knapweed (Centaurea scabiosa).
Meadow crane's-bill (Geranium pratense).
Field scabious (Knautia arvensis).
Wild carrot (Daucus carota).
Common bird's- foot -trefoil (Lotus corniculatus).
Meadow vetchling (Lathyrus pratensis).
Tufted vetch (Vicia cracca).
Common vetch (Vicia sativa).
White clover (Trifolium repens).
Red clover (Trifolium pratense).
Wild marjoram (Origanum vulgare).
Great burnet (Sanguisorba officinalis).

Except for when the access is built to the site the current fencing should remain in place to protect both trees and grassland throughout.

Although not discussed whilst on site, keeping the ditch/drain open is of tremendous value to wildlife, and allows water availability to the adjacent trees (willows/poplars high water demand species) to remain constant, looking at the drainage strategy water availability may even increase. Poplar trees will thrive in moist soils, very occasionally becoming water-logged, but are unlikely to if in continually water- logged soils.

SHDC Housing

This application proposes 6 affordable units, constituting 25% of the 21 proposed dwellings, which would
meet the planning policy requirement.

In relation to the size and tenure of the affordable housing units, the following units have been identified:
2 x 2 bed 4 person and 2 x 3 bed 5 person for affordable rent and 2 x 3 bed units for shared ownership which
would meet the identified need in terms of number of bedrooms and tenure.

The location of the affordable properties proposed is shown on a plan and meets the clustering requirements and the properties appears to meet the minimum bedroom size requirements.
For information, Registered Providers require the properties to meet a minimum of 85% of National Design
Space Standards. Single bedrooms should also be suitable for an adult to occupy and should therefore have
a floor area of at least 6.5m2 to comply with section 326 of the Housing Act 1985.

If planning permission is granted the applicant should also seek to secure a Registered Provider for the
affordable dwellings at the earliest opportunity. The Housing Strategy Team can provide a list of RPs with
stock in the local area should the applicant require this.

SHDC Environmental Protection

Standard land contamination and construction management plan conditions should be attached to any approval.

SHDC Housing

6 affordable units equates to 25% which meets the planning policy requirement.

The identified affordable housing units include; 4 x 2 bed 4 person and 2 x 3 bed 5 person and 4 x 2 bed for affordable rent and 2 x 3 bed units for shared ownership. However, based on local needs, a more suitable tenure distribution would be 3 x 2 bed and 1 x 3 for affordable rent and 1 x 2 bed and 3 x 1 bed units for shared ownership.

While the government's First Homes Scheme recommends that First Homes should constitute at least 25% of all affordable housing units delivered through planning obligations, the proposed shared ownership units meet local affordable housing needs.

The location of the proposed affordable properties is shown on a plan, meeting clustering requirements and minimum bedroom size standards. For your information, Registered Providers require properties to meet at least 85% of National Design Space Standards. If planning permission is granted, the applicant should seek to secure a Registered Provider for the affordable dwellings at the earliest opportunity. The Housing Strategy Team can provide a list of Registered Providers with stock in the local area if needed.
To summarize, the Local Housing Authority supports this application, provided the details of the affordable housing provision are secured within a Section 106 agreement. We remain open to discussions regarding affordable housing requirements to assist developers and their agents in navigating their applications effectively.

Holbeach Parish Council

Site plan does not show the 6 affordable houses.

Cllr Hutchinson

Agent has not carried out the sequential test for flood risk in accordance with paragraph 168. There is no evidence that an authority wide search has been carried out and no alternative sites have been considered and ruled out. A quick search on the EA flood maps show there are serval other edge of settlement site near Holbeach in flood zone 1 or 2 and there are many other sites available in the district, so the sequential test wouldn't be able to be passed anyway. Application conflicts with the development plan, (particularly LP01). Queried if coming to Planning Committee.

Public

2 objections received which raise some or all of the following points:
-187 houses approved on site already. Infrastructure cannot take this. No dentists in area, doctor's surgeries are full.
-speed limit 60mph. Animals killed on road. How long before a child is killed.
-Due to sheer volume of people entering the new estate the road will become much busier making it unbearable for those already living in Damgate. Noise levels and car fumes will increase, making life for existing people living nearby intolerable.
-Existing houses in this road will decrease.
-Holbeach now 2 up2 down city. Nice rural road being spoilt once again.
-Sewers back up and overflows into garden. Building further properties will worsen this problem. I have no issue if Anglian Water can improve their infrastructure to accommodate this increase.

Planning Considerations

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, 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 (updated 2023) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.
Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

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. As at 31 March 2024 the 5 Year Housing Land Supply demonstrates a 6.4 years supply.

Principle of Development and Sustainability

The South East Lincolnshire Local Plan sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework 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 in respect of sustainable development 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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within Minor Service Centres, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within Minor Service Centres will normally be limited to Allocated and Committed sites and infill.

The National Planning Policy Framework, (NPPF) (December 2023) outlines, within para 60, 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 and that land with permission is developed without unnecessary delay".

Para 70 of the NPPF (December 2023) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area 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 site is outside the settlement boundary of Holbeach, which is a Main Service Centre, as shown on the inset maps, although is immediately next to the boundary. The agent describes the site as 'edge of the settlement', part of a wider landscape, the majority of the wider site has permission for housing and was previously developed, and that part of the site "matches its landscape surroundings" and "squares off" the wider development as a whole. It should be noted that although this portion of the former larger site was indeed part of the wider landscape, this section was never within the red line boundary of the previous planning application as it was under different ownership at the time.

The previous planning application was also approved under different circumstances to that of today and under a different Local Plan.

The application site is within the countryside.

The purpose of defining settlement boundaries is to provide a degree of certainty to the community and to developers about where the most sustainable locations for new development will be promoted, in line with Policy 1. Development will be permitted in Main Service Centres that supports their role as a service centre for the settlement itself. Note that this aspect of the policy specifically states "in Main Service Centres" meaning that being inside or outside of the boundary is extremely important as that defines its location and position within the settlement hierarchy and affects its sustainability status and crucially, whether or not that location is contrary or in line with policy. Being outside of the settlement boundary means the site is within the countryside and not in the Main

Service Centre itself.

The countryside is at the bottom of the settlement hierarchy, in the least sustainable location in the settlement hierarchy, which also acts as a hierarchy in sustainable development terms, with more sustainable locations at the top of that hierarchy as those locations have the widest choice of sustainable travel modes. In contrast, in the countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits as it is relatively less sustainable.

Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and for decision taking this means:

'c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission."

Footnote 8 clarifies that this "includes, for applications involving the provision of housing, situations where (a) the local planning authority cannot demonstrate a five year supply.."

Being outside of the settlement boundary is by definition contrary to the Local Plan, unless there are conditions where, as in paragraph 11 (d) with reference to Footnote 8, there are policies which are out of date. This would include the local planning authority not having a 5 year housing land supply.

SHDC has a housing land supply of 6.4 years as at the 31 March 2024. As a result, the additional housing forming part of this proposal is not needed to bolster the 5 year housing land supply. In other words the development is not necessary to such a location in the countryside, which is what Policy 1 requires. Had the local planning authority not have had a 5 year housing land supply, the tilted balance, as per paragraph 11, would be engaged and the presumption would be to allow development in this location in policy terms. As the tilted balance is not engaged, the policies are not considered out of date, and the development is not compliant with Policy 1 subject to the following considerations, taking into account economic, community or environmental considerations:

Economic

In economic terms the construction of 21 additional houses in the countryside, in close proximity to the settlement boundary, will increase economic spend in the area from the period of house construction itself and also from future occupants of the housing in terms of their future economic spends. The economic benefits of construction will be short term, spends from future occupants would be longer term. It should be noted that any housing, constructed in any location would produce the same benefits, so this benefit is not linked to the location of the site. This weighs in favour of the proposal.

Community

In community terms, 21 dwellings would boost housing supply (albeit in an unsustainable location) and require a portion of affordable housing which in this case would be for 6 affordable houses. This weighs in favour of the proposal.

Environmental

In environmental terms the location of the dwellings would be in the countryside, which is recognised in paragraph 180 (b) of the National Planning Policy Framework, December 2023 (NPPF) as being a precious resource in itself. The countryside is at the bottom of the settlement hierarchy within the least sustainable location in terms of the sustainable development hierarchy. As stated above, the presumption in favour of sustainable development as per Paragraph 11 is not engaged in this instance.

It is recognised that the applicants argue that this is an "edge of settlement" location, but that does not change the fact that it is in the countryside. The reason for settlement boundaries is to differentiate between locations in sustainability terms, and to check unrestricted urban sprawl in line with the adopted Local Plan, otherwise there is a danger that subsequent development sites will

incrementally expand to increasingly unsustainable locations, leading to "boundary creep". The implication of the 'edge of settlement' label is clearly to suggest that its location is not as unsustainable as more remote locations in the countryside. However, accessibility to more sustainable transport modes is not considered to be the sole aspect of unsustainable locations in policy terms and is not considered to be a reason to set aside the very clear intention of Policy 1 to create a difference between sustainable and unsustainable development and with this Local Plan; the way to differentiate is the settlement boundary - clearly establishing between urban and rural locations.

The boundary to make this policy distinction has to be set somewhere.

The fact that the location is within the countryside weights against the proposal in policy terms due to its location which is an unsustainable location in principle. Taken together, with the healthy 5 year land supply that exists at present that has actually increased in the last 18 months, this underpins the need to enforce the distinction between countryside and sustainable settlements and as a result the proposal is fundamentally contrary to the adopted up to date development plan.

It is correct that 188 dwellings to the site adjacent to the north and east were approved planning permission and granted permission on the 3 May 2018 under reference H09-0332-16 - but this was under very different policy conditions. At the time of the approval the Council did not have a 5 year housing land supply so the 'tilted balance' would have been engaged to tip the development proposals in favour of approval. That is not the situation at the present time, as the Local Planning Authority have a very healthy 5 year supply. The layout of the previous site plan excluded this part of the development from the red line area which was not part of the application boundary.

In addition, the application for 188 homes incorporated amenity space equivalent to 14.5% of the overall site area, under a different open space policy which is less stringent than the current Local Plan, and calculated on a ratio of developable area to open space area, rather than a population based calculation as per the current plan.

The agents argue that the site is so close to Holbeach which is towards the top of the sustainability hierarchy and offers a wide range of services and facilities including University Academy Holbeach and the National Centre of Food Manufacturing. The application site is within walking and cycling distance to the town centre, education facilities and employment centres thereby avoiding reliance on the use of the private car. Bus stops are located on Fleet Street some 330 metres away, a 5 minute walk from the site. The agents argue despite its location in the countryside, it is still within a sustainable location opposite Holbeach Community Centre and its associated floodlit playing field and within 400 metres of Littlebury Medical Centre on Fishpond Lane. Holbeach town centre is within 600 metres of the site. The agents view the site as being a "remnant of a larger undeveloped area sandwiched between the consented adjacent development and an established tree line which can reasonably described as visually forming the end stop to the physical limit of Holbeach on the east side of Damgate." They also consider the site 'rounds' off the approved development pattern in this part of Holbeach. These matters are noted and taken into account, however, given the current 5 year housing land supply situation which is materially different to when the larger site was approved, this is not considered to be a convincing argument within the current policy context, because it does not conform with Policy 1. The environmental harm to the unsustainable location of the site within the countryside outweighs both the economic and social benefits of the proposal.

The proposal is therefore considered contrary to Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is separate to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

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

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful places' and details 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 National Planning Policy Framework (December 2023), 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.

Development proposals should also ensure that developments 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 South East Lincolnshire 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. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework, 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.

These policies accord with the provisions of the National Planning Policy Framework 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.

Policy 32 of the SELLP states that development shall contribute to the creation of socially-cohesive and inclusive communities, reduce health inequalities and improving the community's health and well-being. Provision for open space is required in accordance with the standards set out in policy 32. The layout is that of a cul-de-sac with the only large section of public amenity space within the red line being the 9m landscaping strip along the eastern boundary. The agents argue that SuDs features are included within the site, that amenity space is 14% of the developable area, and the mature trees along the boundaries have amenity value and are retained, albeit via separate legal agreement outside of the red line boundary, so should form part of calculations about amenity space, even though the southern portion of the site is not included within the boundary but is under the ownership of the applicant. The reason for separating out the southern section is to manage Biodiversity efficiently via a separate legal agreement to manage this section by a management company for 30 years as per Biodiversity Net Gain requirements.

The layout is separated functionally from the larger consented scheme with no vehicular access through to the larger, consented site, although there is a footpath adjacent to the 9m easement in front of the shared drive for plots 18 and 21. The agent states that the footpath allows residents to access the neighbouring site, and there is community facilities/play space and recreation nearby, and opposite the site. They also state there are large extents of public open space to the rear and they do not consider a children's play area is needed on site. They feel amenity space is adequate.

For a development of 21 dwellings, Policy 32 requires 2616 square metres of open space, calculated on a population basis, not a percentage of developable area basis. Ratios of typologies per 1000 people are shown in the policy, and the total population of the dwellings are calculated based on census data. Amenity Greenspace, Children's play space, Parks and Gardens and Natural and Semi-natural typologies are part of the required calculations. The site is not large enough to require allotments or burial space typologies on site which also feature in Policy 32. Within the red line boundary of the application, the largest area of open space comprises of a 9m easement strip adjacent to the IDB drain on the west, north and south of the access road, and a strip beyond the rear gardens next to the southern tree line. This area is estimated to equate to just under 824 square metres which can be counted towards public open space.

If the additional land area that is in the control of the applicant is included along the southern boundary, containing the Biodiversity Net Gain and trees, and counted as natural and semi-natural open space that is outside of the red line boundary, this is estimated to add a further 644 square metres in amenity space. As a result, total amenity space for the site is estimated to be 1467. 8 square metres, whereas the requirement is for 2616 square metres, meaning that total required amenity space available is 1148.2 square metres short of complying with the policy. The proposals

do not comply with Policy 32.

The agent argues that residents can utilise other open space nearby on other sites and the wider site. It should be noted that each case should be dealt with on its own merits and relying on surrounding open space that may or may not be present in future does not make the application compliant with policy. There is also no control over whether or not those other sites would remain available to be utilised in addition.

The site is therefore deficient in amenity space as a result of being in conflict with policy 32.Whilst it is correct a children's play area could be secured via a suitable S106 contribution to be provided elsewhere, the deficiency is considered to be more severe than simply providing a 48 square metre play area nearby. A children's play area could not be located within the 9m easement on site as this could not contain play equipment as the IDB require this area to be kept clear for maintenance purposes. Other typologies are also required and the shortfall cannot be accommodated on site without losing dwellings.

Within Holbeach open space typologies which are deficient in the area are natural and semi-natural, and children's play space. The layout does not incorporate sufficient levels of these typologies. If seeking approval today for the adjacent site, if calculated in terms of the requirements for this site based on Policy 32 together with the adjacent site, the combined sites would require 2.62 Hectares of open space, compared with the 1.46 hectares provided on the adjacent site. Whilst it is recognised that the adjacent scheme is already approved, it does not offer compensatory open space to modern standards to make up for deficiencies on the application site. Both are deficient compared with Policy 32. As a result, the argument that the residents of the current scheme could access open space elsewhere loses credibility within the context of the area being generally deficient of children's play sapce, natural and semi natural typologies with surrounding areas also being deficient. The application conflicts with policies 2, 3 and 32 in terms of the lack of sufficient open space.

The layout shows the retention of the existing trees along Damgate and the southern portion of the site although this is outside of the red line boundary, with an existing access in between the trees. Dwellings are arranged around the central cul-de-sac. A private drive with four dwellings is proposed in the north west corner with four dwellings off that road.

The design of the houses are semi-detached pairs apart from plots 13, 14 and 15 which comprise a terrace. Efforts have been made to break up parking banks. The frontage are interspersed with landscaping and various shrubs. Garden depths are considered reasonable. House types are typical modern housing designs with a variety of brick colours and designs.

Boundary treatment would consist of 1.8m wooden fencing. A garden wall flanks number 21's rear garden. Along the north west boundary, there is a need to keep the 9m easement clear of development or new vegetation, which accommodates the trees. The access road removes several trees. Along the southern boundary the hedgerow and treeline would be retained, with some Willows pollarded. The southern and western trees are outside of residential gardens which is beneficial for management purposes for Biodiversity Net Gain purposes.

As the scheme would be set behind mature landscaping, this does go some way in disguising the layout in character terms to some degree. Views into the site would be visible from the access point. However, given the southern trees are outside of the red line boundary, their retention would be required as part of a Section 106 agreement. The latter is also required as part of Biodiversity net gain measures which is discussed later in this report.

The Local Highway Authority requested pedestrian access to the wider site, as relying on one single access point is not ideal, particularly as that access point is to be constructed over the top of an IDB drain. If the structure fails, the development would be cut off. The agents are unwilling to lose a unit to facilitate this. Whilst this weighs against the proposal in terms of general layout and design terms, the single access is not severe enough to refuse planning permission on this point alone.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be contrary to policies 2, 3 and 32 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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 South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The dwellings and layout are not near existing residential dwellings, although the finished floor levels would result in properties being one metre higher than existing ground levels which would have implications for the elevations themselves. The nearest residential properties are those to the immediate north which already have approval. Given that the layout has rear gardens facing the boundary to the north, the elevated finished floor levels are not likely to result in a direct loss of light or outlook to future occupiers of the dwellings. As such the scale and design of the proposals are not thought to be detrimental to residential amenity.

As detailed above, the scale and design of the proposal is considered to be such that there would be 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 the provisions of this aspect of Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) 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 would be severe".

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.

Furthermore, Policy 36, to be read in conjunction with Appendix 6 of the South East Lincolnshire Local Plan, 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.

Each dwelling has at least two parking spaces per dwelling. The Local Highway Authority requested a vehicular connection to the wider site, as this would be beneficial particularly if the culvert at the access needs to be replaced as without another access the site would be cut off. Whilst it is considered that this is a deficiency with the overall layout and design of the development, in itself it is not sufficient to refuse.

There is a pedestrian link to the wider site. Cycle parking would be secured via condition should permission be otherwise forthcoming.

The proposal is considered to not conflict with Policy 36 of the South East Lincolnshire Local Plan in design terms.

Flooding Considerations

Section 14 of the National Planning policy Framework (December 2023) (NPPF) in paragraph 165 makes it clear that inappropriate development in areas at risk from flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flooding elsewhere.

Paragraph 168 of the NPPF stresses the need to take account of advice from the Environment

Agency and other flood risk management authorities including internal drainage boards.

Paragraph 167 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.

Paragraph 168 details "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", with the sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

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 Exception Test may have to be applied. Paragraph 169 states that "the need for the exception test will depend upon the potential vulnerability of the site and of the development proposed, in the Flood Risk vulnerability Classification set out in Annex 3."

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps which has the highest probability of flooding. 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 South East Lincolnshire Local Plan 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 South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

There is a riparian drain on the southern boundary and an IDB high priority watercourse on the Western boundary of the site. The access to the site crosses the drain with no other access available. The Local Highway Authority has requested a separate access should the construction (which is essentially a concrete box) should fail to avoid the site being cut off, but this has not been incorporated into the layout.

In terms of the South East Lincolnshire SFRA, the residual flood hazard map for the 1% fluvial and 0.5% tidal event shows the site is within the 'Danger for Most' in 2116 - between 1.25 and 2. Only one category of hazard is higher than this (which is the Greater than 2.0 - Danger for all). It is therefore not in either the Low Hazard (less than 0.75) or Danger for Some zone (between 075 and 1.25). The Residual Peak Depth Map for the 1% Fluvial and 0.5% tidal is outside the area at risk of flooding for the present day, but the peak flood depth is between 0.5m and 2.0m for 2116 for the majority of the site, but along the southern stretch of the site, where the line of mature trees are located, the site is lower, with peak depths of between 1 and 2 metres in 2115. Based on the topographic survey, the flood level is estimated to be +3.2m AOD. Compared with the mapping in this area of Holbeach, the site is at a greater hazard and peak depth than its surroundings. This indicates that there are more preferential sites in Holbeach that are preferable in flood risk terms, but the submitted Flood Risk Assessment has not demonstrated or appraised alternative sites. The Local Planning Authority consider in this instance that the Exception Test should be considered nothwithstanding that the lack of information about the Sequential Test in the Flood Risk Assessment

The flood risk vulnerability classifies housing as 'more vulnerable'. An Exception Test is therefore required. Paragraph 171 stresses that both elements of the Exception Test must be passed for development to be permitted. The Environment Agency point out that they comment on part 170 b) of the NPPF which requires the applicant to demonstrate, via a site-specific flood risk assessment, that the development will be safe for its lifetime, without increasing flood risk elsewhere, but also

stress it is for the Local Planning Authority to determine if paragraph 170 a) is satisfied, i.e. that "the development would provide wider sustainability benefits to the community that outweighs the flood risk".

NPPF - Paragraph 170a - Exception Test

Given that the site is outside the settlement boundary in an unsustainable location in the countryside, that the hazard and flood depths are greater compared with other areas of Holbeach and the adjacent site, that the site does not contain sufficient open space, that only one access to the site is proposed which is over an IDB drain, where the Local Highway Authority have requested an alternative vehicular access in case of structural failure, and the design is a cul-de-sac with limited connectivity to the wider development site, it is difficult to conclude that developing the site would provide "wider sustainability benefits to the community that outweigh flood risk" as per paragraph 170 a). This is particularly the case when viewing the NPPF as a whole, and that South Holland has a healthy 5 year housing land supply so does not strategically need development in this unsustainable location. This is particularly the case when the submitted Flood Risk Assessment does not include, as required by paragraph 168 of the NPPF, an area of search demonstrating that no other sequentially preferable sites are reasonably available with a lower risk of flooding. Given that, in comparison with other parts of Holbeach the hazard and peak depth maps show the site to be at a higher risk, the omission of this information is considered a material consideration. Without this information it is considered that the sequential test and the Exception Test has not been passed.

NPPF Paragraph 170b - Exception Test

In terms of mitigation, the Flood Risk Assessment recommend finished floor levels of 1m above surrounding ground level. Any dwellings in locations where ground levels are less than +2.2m AOD are to have 0.6m of flood resistant construction above finished floor level and all dwellings are to have flood resilient construction to +3.5m AOD. The risk is reduced with 2 storey construction with sleeping accommodation on the first floor. The gardens along the semi-detached properties for plots 1 to 10 are within the deepest parts of the site in terms of flooding, with hazard depths of between 1 and 2 metres. The Environment Agency have stated that they are satisfied with the current flood risk mitigation, which includes raising the finished floor levels 1.0 metre above the existing ground level, if secured via a planning condition. They note that if finished floor levels 1.0 m above the current ground level are not acceptable for other planning reasons, and the mitigation could not be implemented, they would object, as this would then mean the scheme would not meet part 170 b) of the Exception test.

The IDB have noted that consent is required under their regulatory regime and applications are being dealt with under their byelaws.

It is therefore considered that the proposal conflicts with Policy 4 of the South East Lincolnshire Local Plan and the intentions of Section 14 of the National Planning Policy Framework, December 2023 in terms of Flood Risk and the proposal is not acceptable in this location, that the Sequential or Exception Tests are not passed.

Impacts of Climate Change

In respect of the climate emergency, section 14 of the National Planning Policy Framework (December 2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'. Policy 28 of the South East Lincolnshire Local Plan seeks to provide an overall net gain in biodiversity by maximising the opportunities for restoration, enhancement and connection of natural habitats. It should be noted that the southern strip of mature trees that are of amenity and biodiversity value are outside of the red line boundary of the application.

The agent has provided additional information to show that the southern strip of land is in the control of the applicant to enable additional enhancements outside the red line boundary along the southern boundary for Biodiversity Net Gain purposes, managed specifically by a management company for 30 years, including retention of the prominent trees and hedgerow along the southern boundary, which are outside of residential gardens with a small buffer strip.
A Section 106 agreement would be required to facilitate this.

Had permission had otherwise been forthcoming a legal agreement to ensure 10% BNG on site would have been possible to ensure that the proposal conformed with Policies 28 and 31 of the SELLP. The retention of this strip also aligns with the Tree Officer comments which highlight the tree belt to the western and southern boundaries are a key feature of the site in landscape terms, noting that their presence is highly visible in the landscape.

It is considered that the proposal is in accordance with Policy 28 and 31 of the South East Lincolnshire Local Plan and Section 14 of the National Planning Policy Framework (December 2023).

Other Matters

Appeal decision APP/A2525/W/24/3343297 dismissed on 13th November 2024 is relevant to this application.

One issue as part of this recent appeal was whether the site is an appropriate location for the proposed development having regard to the development.

In this example the appeal site was located outside of, but immediately adjacent to the settlement boundary as defined on the Policies Map of the SELLP.

The Inspector highlighted that Policy 1 of the SELLP states that in the countryside outside of the defined settlement boundaries, 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.

Given that the Council is able to demonstrate a 5 year supply of deliverable housing, the Inspector concluded that "there does not appear to be any urgent need to locate the proposed dwellings in the countryside. Indeed, I see no objective evidence to suggest that the proposed development in the countryside is necessary to meet the sustainable development needs of the area."

It was recognised that occupiers of the proposed development which was the subject of the appeal would have reliance on access via private motor vehicles but bus services are available. He goes on to state that the site "would still perform adequately from an accessibility perspective, this is not the only factor in considering whether the proposed development would meet the sustainable development needs of an area in line with the requirements of Policy 1 of the SELLP. Sustainable patterns of development in line with the spatial strategy for the area are also important for environmental reasons...Furthermore, any social or economic benefits associated with the proposed dwellings would not be of a level that could be said to meet the sustainable development needs of the area in these respects."

The Inspector concluded that "the site is not an appropriate location for the proposed development having regard to the development plan, In this regard the proposed development would conflict with Policy 1 of the SELLP which requires countryside development 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. The proposed development would also be contrary to Paragraph 15 of the Framework which confirms that the planning system should be genuinely plan-led and to provide homes in a sustainable manner."

It is considered that the appeal decision draws parallels to the current application for similar reasons due to a conflict with the Development Plan.

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.

It is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives.

In economic terms, future occupants of the houses may work locally, support local services and therefore make a contribution to the local economy. There would be short term economic benefits

associated with the construction of the dwellings and minor long term benefits of increased spends associated with the households. The economic benefits resulting from the proposal are minor, but weigh in favour of the proposal.

In community terms, the proposal would make a contribution, albeit small, towards housing supply in the district, including affordable housing. Whilst this is of benefit, the Council has a healthy 5 year housing land supply, and are able to demonstrate a sufficient supply in more sustainable locations. This is neutral in the planning balance. The provision of affordable housing would be of minor benefit.

In environmental terms, the site is outside defined settlement boundary of Holbeach, within an unsustainable location, in an area which is at the highest risk of flooding compared with its immediate surroundings and where the Submitted Flood Risk Assessment does not conform with national or local policy. The sequential test has not been past, and the requirements of the Exception Test has not been satisfied. The design and layout does not provide sufficient open space in addition. The proposal therefore represents demonstrable harm in environmental terms that outweighs any economic and community benefits and is contrary to the South East Lincolnshire Local Plan, 2019 and the provisions of the National Planning Policy Framework, 2019 when viewed as a whole.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:
A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

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

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

Human Rights

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

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

Conclusion

The scheme results in development which is outside of the settlement boundary (although adjacent to it) within the countryside, within the context of a healthy 5 year land supply of 6.4 years. The 'tilted balance' is not engaged at the present time, which means that the development is in an unsustainable location, at the bottom of the settlement hierarchy. Whilst there are some economic and social aspects weighing in favour of the proposal, these do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

This site is also cul-de-sac in layout terms with no vehicular access to the larger scheme, and limited opportunities to link into the larger site, which by modern standards is deficient in overall amenity space. Whilst it is recognised there is nothing to be done with the approved scheme, this emphasises that the lack of on site amenity space for the current scheme conflicts with Policy 32 of the SELLP. A children's play area cannot be accommodated within the 9m easements strips on land that could be used as amenity space on site, and part of the BNG southern strip is outside the red line boundary which would have given further opportunities for increased natural and semi-natural typologies within the site. Whilst the southern site could have incorporated sufficient 10% BNG via a legal agreement, overall the site is still deficient in open space by a significant measure. As a result it is considered that the proposal conflicts with policies 2, 3 and 32 of the SELLP.

Recommendation

It is recommended that planning permission be refused.