

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H09-0596-25      **Applicant:** Ms C Holmes

**Proposal:** Demolition of existing agricultural building benefiting from Class Q approval (Ref: H09-0420-24) and erection of two storey dwelling and attached associated garage block.

**Location:** 98 Dog Drove North Holbeach Drove Spalding

**Terminal Date:** 21st August 2025

### Planning Policies

#### South East Lincolnshire Local Plan - Adopted: March 2019

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development
- 10 Meeting Assessed Housing Requirements
- 11 Distribution of New Housing
- 17 Providing a Mix of Housing
- 28 The Natural Environment
- 30 Pollution
- 31 Climate Change and Renewable and Low Carbon Energy
- 33 Delivering a More Sustainable Transport Network
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards

### National Guidance

#### National Planning Policy Framework December 2024

- Section 9 - Promoting sustainable transport
- Section 12 - Achieving well designed places
- Section 14 - Meeting the challenge of climate change, flooding and coastal change
- Section 15 - Conserving and enhancing the natural environment

### Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	2	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

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

## **CASE OFFICER ASSESSMENT**

### **Proposal**

This is a full planning application seeking permission for the demolition of an existing agricultural building benefiting from Class Q approval and the erection of a two storey dwelling and attached associated garage at 98 Dog Drove North, Holbeach Drove.

The replacement dwelling would have a total height of 8875mm to the ridge and around 4850mm at the eaves. It would measure at 15392mm by 14380mm plus an additional 7077.5mm for the attached garage. Finally, it is proposed to be constructed from facing brickwork, roof tiles, aluminium joinery windows and a timber panel fence.

### **Site Description**

While the property is within a small pocket of development, the site is outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, lying approximately halfway between Holbeach Drove and Whaplode Drove. The area is characterised by residential and agricultural developments.

The existing building itself is closely related to 98 Dog Drove North, without a clear boundary between the two buildings. A gate, leading to the rear of 98, cuts between the two properties. The existing building is utilitarian in appearance, being a squat, timber clad structure with a sheet metal roof. A large rolling metal door faces the road.

### **Relevant History**

H09-1069-10 - Full. Proposed glasshouse and storage shed - Approved

H09-1244-18 - Full. Use of site for the keeping of more than 6 dogs (retrospective) and the erection of a kennel block (retrospective) - Approved

H09-0420-24 - Prior approval. Proposed Barn Conversion into Residential Dwelling - Approved

H09-1005-24 - Demolition of existing agricultural building benefitting from Class Q approval (Ref: H09-0420-24) and erection of chalet bungalow and attached associated garage block - Approved

### **Consultation Responses**

#### Holbeach Parish Council

Fully support.

#### Whaplode Parish Council

No comment.

## South Holland Internal Drainage Board

Consent may be required under Byelaw 3, not currently required under Section 23 and Byelaw 10.

## Lincolnshire County Council Highways Authority

### **ADDITIONAL INFORMATION REQUIRED.**

Visibility is to be demonstrated in accordance with Manual for Streets.

The width of the access should be detailed, and a note should be added to the site plan to say that the access will be constructed to Lincolnshire County Council Specification.

## Lincolnshire County Council Historic Places

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.

## South Holland District Council Environmental Protection

I have reviewed the Gold Finch Tier 1- Contamination Risk Assessment, Report ref: 0979/1, dated November 2024 for the proposed residential development 98 Dog Drove North. I am in agreement with its findings and no further investigation is required. However I request the following:

In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

## Senior Ecologist

Demolition of existing agricultural building benefiting from Class Q approval (Ref: H09-0420-24) and erection of two storey dwelling and attached associated garage block.

Summary: There appear to be large discrepancies between the on-site habitat apparent on-site via recent satellite imagery, and the habitat classifications recorded in the BNG assessment, metric estimate, and Environmental Impact statement. Therefore, we request the applicants to submit an amended metric (as described below) as soon as possible to minimize uncertainty and delays when the applicants wish to discharge biodiversity gain condition.

Documents reviewed:

- BNG Small Sites Metric
- Ecological impact assessment (EIA)
- Biodiversity statement

Ecological Considerations:

- The EIA the applicant provided is comprehensive and we have confidence in its conclusions. We support all mitigation and enhancement recommendations provided by the ecologist in the EIA and wish for them to be set by condition.

#### BNG Comments:

- There are a variety of discrepancies that need clarification prior to the authority having confidence in the metric assessment biodiversity estimates for this development:
- After looking at this site from satellite imagery, I believe the baseline habitat to the North of the site has been improperly categorised. This habitat is currently categorised as: modified grassland and a stretch of hedgerow with trees. However, when looking back through years of satellite imagery (2020 - when degradation of a site is dated back to for BNG purposes, 2022 and 2023) I believe this section of land would be more accurately classified as either woodland (providing 0.32 baseline habitat units) or mixed scrub (also providing 0.32 baseline habitat units). This would also mean that the hedgerow baseline is not included in the baseline Metric calculation. I request the above amendments are made to the metric assessment, or that supplementary information (e.g., photographs) are provided to evidence the current habitat classification.
- In addition, I do not believe that any of the baseline habitat should be recorded as retained in the metric, because it appears that it will all be disturbed/changed during development.
- The vegetation in the habitat creation for post development should be classified as vegetated garden rather than modified grassland because it is entirely encompassed within the domestic curtilage of the property (please see page 27 of the Small-Sites Metric User Guide).
- The dwelling footprint in the proposed plan should be categorised as developed land/sealed surface rather than built linear feature for accuracy and to conform with UKHABS classification.
- After changing the baseline habitat to include a section of woodland/mixed scrub my calculations suggest there would be a unit deficit of 0.2804 (-77.7%). This is based off the following estimations:
  - Unless the applicant wishes to change their on site BNG plans then this application will not achieve 10% Biodiversity Net Gain on site and they will need to secure 0.2486 habitat units offsite. These will need to be secured pre-commencement and can be achieved via 2 routes:
    1. Bespoke habitat creation/enhancement could be undertaken by the applicants on land they own elsewhere or in agreement with another landowner. To discharge the biodiversity gain condition the applicants would have to secure the appropriate habitat creation/enhancement by either entering a section 106 agreement with the local authority or through undertaking a conservation covenant with a responsible body pre-commencement.
    2. The applicants could purchase the appropriate number of units from an off-site habitat bank and evidence this to the authority pre-commencement. This can be achieved through the applicants contacting an off-site unit provider, aka a habitat bank, (which has biodiversity units registered on the national gain-site registry) to arrange a contract for the applicant to purchase the necessary units from the habitat bank. The habitat bank then notifies the national gain-site register to allocate the specifically referenced units to the applicant. To discharge the general biodiversity gain condition, the applicant provides us with this reference information and evidence of the purchase (e.g. a receipt or copy of the contract with the habitat bank) along with the biodiversity gain plan that they must submit to us pre-commencement. These details are also recorded within a finalized version of the metric submitted with the gain plan. The authority can then independently confirm the unit transfer by checking the unit references against the national gain-site register and then approve the gain plan to discharge the Biodiversity Gain condition.

Any changes that are made to the metric will need to be re-mapped out on habitat maps for both baseline and post-development habitats.

I am happy to discuss the details of this application further to ensure that the metric is used accurately and rigorously.

Conclusion: We have confidence that this application will be able to achieve 10% net gain through securing the habitat unit deficit of 0.2486 through off-site gains (as mentioned above). We require changes to be made to the metric assessment as soon as possible but this can be done pre-commencement if necessary.

#### 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, 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 December 2024) 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

The National Planning Policy Framework (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".

Paragraph 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.

Policy 1 of the South East Lincolnshire Local Plan (2019) 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.

Policy 1 of the South East Lincolnshire Local Plan (2019) is clear in 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 considered to be countryside, and as such the application site is considered to lie within the 'Countryside' in policy terms.

In assessing this matter, in respect of the principle of development in the open countryside, Policy 1

details 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". In light of this it is clear that a single dwelling within the open countryside, which does not meet a specific housing need, as illustrated within the supporting context of Policy 1, would typically be resisted in principle.

The supporting text to Policy 1 goes into further context regarding 'specific housing' need for such a location and 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)". Exceptions can also be made, under Policies 22 and 23 of the South East Lincolnshire Local Plan (2019) respectively, for replacement dwellings in the countryside and reuse of existing buildings.

The site is occupied by an agricultural building, which at the time of writing, has yet to commence the work approved under H09-0420-24. The proposal would see its removal, rather than conversion. As such, the proposal would not be eligible for assessment under Policies 22 or 23 of the South East Lincolnshire Local Plan (2019). The proposal has also not demonstrated a tangible need in line with Policies 19 or 20.

#### Principle of Development - Self Build

The Self-build and Custom Housebuilding Act, 2015, indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan (2019) specifically refers to self-build & custom build dwellings, indicating in Paragraph 5.3.5 that "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".

This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in appeal decision APP/A2525/W/18/3218958, despite giving the statutory requirement regarding self-build and custom-build significant weight, that the appeal site was not a suitable location for that type of housing as it was in the open countryside. This demonstrates the above point in practice.

The site in this instance lies outside of the defined settlement boundary; and therefore, fails to accord with the provisions of Policy 11, as the policy clearly directs sites to 'within the defined settlement boundaries'.

The South East Lincolnshire Local Plan (2019) makes no exceptions to its spatial strategy for previously developed land, for existing plots of residential land being subdivided, or for self-build. Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan area. However, with reference to custom and self-builders it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions.

Therefore, for the reasons stated above, in addition to the lack of any evidence to demonstrate a lack of self-build properties within the district, whilst weight must be attributed to the developments contribution to custom/self-builds within the area, the weight attributed to this proposal in respect of self-build housing is tempered accordingly and is limited.

#### Principle of Development - Class Q

The site presently has prior approval for a change of use of existing agricultural buildings into a dwelling under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015. Caselaw has demonstrated that Class Q consents are a legitimate fallback position when considering alternative proposals for development of the same site.

The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC (1998)*. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted that there were three elements to the fallback test: "First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly, if the answer to the second question is "yes", a comparison must be made between the proposed development and the fallback use."

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

It is considered that the Class Q proposal is readily achievable, and therefore, the assessment of principle should focus upon whether the proposal would represent a betterment. Further discussion regarding whether the proposed dwellings would represent a betterment is found throughout the report, with this narrative being made within the context of this fallback position.

That being said, to briefly summarise the discourse to follow, the proposal, by virtue of its prominent location, significant scale and overall design philosophy, is not considered to represent such a significant betterment as to justify the proposal being supported. As such, despite the fallback position, the proposal is considered unacceptable in principle.

### Principle of Development - Summary

To summarise the above, the proposal is considered to be contrary to Policy 1 of the Local Plan. The site is located outside of any defined settlement boundary, and as such, can be considered to be within the Countryside from a planning perspective. The proposal has failed to adequately demonstrate a need for the development to occur in this location or that it meets the sustainable benefit requirements for the area.

Furthermore, whilst the site does benefit from a Class Q fall back position, the principles of *Mansell vs Tonbridge and Malling Borough Council (2017)* outline that subsequent applications should demonstrate a betterment which, for the reasons outlined below, this application is not considered to do.

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

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed 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 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout 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 (2019) 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 (December 2024), 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 (December 2024) 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.

Aspects of design which contribute to a positive sense of place are outlined within the National Design Guide (NDG). This document provides broad guidance on design matters. In lieu of a comparable document for South Holland, the NDG is considered to represent a significantly important document on design matters within the District.

Paragraph 53 of the NDG outlines the broad principle that well designed new development is influenced by an understanding of the existing character of the area, including aspects such as scale and materials. This is further supported by Paragraph 56 which states that "well-designed places contribute to local distinctiveness. This may include: adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area; drawing upon the architectural precedents that are prevalent in the local area". To this end, it is established that a proposal must be consistent with the overarching design philosophy of its setting and enhance what positive features are present in the area.

Paragraph 57 of the NDG concerns materials, and states the following: "Materials, construction details and planting are selected with care for their context. They are attractive but also practical, durable and affordable. They contribute to visual appeal and local distinctiveness". To this end, materials should be consistent with both the design approach of the development itself and that of the wider area.

As outlined within the principle matters section of this report, the discussion surrounding design matters should be made in the context of the fallback position. To this end, the question becomes does this new proposal represent a betterment of H09-0420-24.

In light of this, as discussed within the relevant report for H09-0420-24, while the approved conversion would not necessarily be an exemplar development, it is of some merit and its scale and positioning is broadly consistent with the wider area. As H09-0420-24 is a conversion, where comparable materials are to be used and no extensions are proposed, the tangible impacts upon the character and appearance of the area arising from the development are limited. The resultant built form, through the conversion of the building, provides a clear evidence of progression to an agricultural building.

The concerns raised within the previous application, which was subsequently refused, can be summarised as being of a significant scale, cramped, imposing and use of materials which result in the proposal not being considered to be a betterment dwelling overall. For the most part, the new scheme retains similar concerns, despite a new design being proposed.

Firstly, the overall scale has been slightly reduced from that previously proposed; however, the proposal retains the fundamental layout of that previously proposed (albeit increased in height), and does not provide an alternative design that overcomes the concerns raised in this regard.

The proposed development seeks to erect a two storey dwelling, of a typical two storey scale, in lieu of the previously refused development which comprised a one and a half storey dwelling and in lieu of the extant Class Q approval, which itself was a modest single storey conversion. In this regard, the proposed dwelling, although reduced from its previous proposal that was 50sqm larger, would be 35sqm larger than the nearest neighbouring property (No. 96 has a total internal floor space of 190sqm, whilst the proposal sits at 225sqm). This increase would still exacerbate any potential character impacts.

Alongside this, it is considered that the proposed dwelling is significantly larger than, and on an entirely different footprint to, the existing agricultural building on site; resulting in a significant departure from the established built form of the area still.

Whilst the overall application site has remained the same as that previously proposed (within the refusal), and the dwelling has been reduced to some extent, it is not considered that this alteration has overcome the matters previously raised. The effect of the significant scale is further increased by the relatively small plot size, as a result, the proposed dwelling would result in a cramped form of development, and would appear at odds with the more spacious character of the surrounding context and area, which features plots of a much larger scale.

In a similar light to the previous report, the claustrophobic effect that the development would create, causes further harm to both No. 96 and 98 Dog Drove North. These neighbouring plots would be reduced in size as a result of the proposal; therefore, making both of these plots appear more cramped as a result and therefore also out of character with what the majority of plots feature currently.

Turning to the imposing nature of the proposal, it is considered that, although having been moved further back from the highway to a point of 16.8m (whereas this was previously approximately 15m), the positioning of the dwelling is such that the development becomes much more imposing. This is further exacerbated through the visual effect of the relatively small plot, its relationship with adjacent dwellings, and the excessive scale which has been increased to two storey; resulting in an overly prominent and unduly dominant development.

The existing structure, whilst not necessarily an exemplar model of a traditional or a building of significantly high merit, provides a clear agricultural character, which is omitted in its entirety by the design of development provided in this case.

Lastly, the materials have changed throughout. The materials proposed comprise facing brickwork, roof tiles and aluminium joinery windows. The brickwork and roof tiles, whilst no specific details have actually been specified, would better suit the area, which is predominantly constructed from brickwork and roofing tiles.

It should be noted that whilst the design differs in some aspects, the changes are not considered to be substantial enough to warrant a refusal and when 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 and appearance of the area and would therefore be contrary to Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

Taking account of the design, scale, and nature of the development, as detailed above, in addition to the consideration that the design changes when viewed against those of the previous refusal are not considered to be substantial or adequate to overcome the concerns raised, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character and appearance of the area and would fail to provide an adequate betterment; therefore being contrary to Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

### Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2024) 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.

Due to the windows on both of the side elevations being either obscure glazed and not habitable rooms, there is not considered to be any potential material overlooking impact. The windows facing the highway and rear are also not considered to result in any harm and therefore the proposal is

acceptable from this point of view.

Notwithstanding this, in a similar light to the previous application; there is considered to be overshadowing impacts towards No. 96 Dog Drove North. Due to the positioning of the plots and the location of the windows of the neighbouring dwelling, this impact is considered to be notable and unacceptable.

The previous proposal comprised a highest point of 7260mm, with this proposal seeking a maximum height that increases this to 8875mm; whilst the siting is fundamentally the same. As stated previously, whilst this overshadowing in itself may not be to an extent that would warrant refusal solely on residential amenity impact, given the context of betterment in which this report is framed, it is not considered therefore that the proposal would represent a betterment in this regard.

As detailed above, the scale and design of the proposal is considered to have an unacceptable impact on the residential amenities of the occupiers of adjacent properties when viewed in comparison to the conversion currently permitted, particularly when taken in the context of the existing fallback position.

### Flood Risk and Drainage

Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of 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 flood risk elsewhere".

This goes on to state, within Paragraph 172, that all plans "should 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: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 173 of the National Planning Policy Framework (December 2024) goes on to state that "A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding", by following the steps set out within Section 14 of the National Planning Policy Framework (December 2024).

Paragraph 174 goes on to state that, "Within this context 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 strategic flood risk assessment being the tool to demonstrate this.

Paragraph 175 details 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 site lies within Flood Zones 1 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 South East Lincolnshire Local Plan (2019) 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.

The site is within Flood Zone 1 of the Environment Agency's maps and within an area of no hazard within the South Holland Strategic Flood Risk Assessment. As such, there is considered to be a relatively low flood risk on site. No mitigation measures have been proposed due to this. South Holland Internal Drainage board with consent not being required under Section 23 and Byelaw 10 but may be required under Byelaw 3.

#### *Byelaw 3 (Surface Water)*

I cannot see that the applicant has identified a drainage strategy for the site within their application. We recommend a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3.

The Board recommend that any discharge is in line with the National standards for sustainable drainage systems (SuDS) published in June 2025. Further to the National Standards for SuDS, the Board's policy is to restrict discharges to 2/l/s/ha or annual average flood flow rate (QBar or QMed), whichever is higher.

Please note that any consent granted for the discharge of treated foul water is likely to be subject to a Surface Water Development Contribution fee (SWDC) as outlined within our Development Control Charges and Fees.

#### *Byelaw 3 (Treated Foul Water)*

I note that the applicant has not indicated how they propose to dispose of foul water from the development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3. Please note that any consent granted for the discharge of treated foul water is likely to be subject to a Treated Foul Water Development Contribution fee (TFWDC) as outlined within our Development Control Charges and Fees.

#### *Section 23, Land Drainage Act 1991*

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the wider western 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).

I note the presence of a Board owned and maintained watercourse (D04 Division Drain - DRN195P0403) adjacent to the wider western site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the 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).

#### *Byelaw 10*

Whilst not currently proposed, should the applicant's proposals change to include works within 9 metres of the aforementioned Board Maintained watercourse, or if works within 9 metres of the watercourse are proposed at any time in the future, consent would be required under Byelaw 10.

The applicant is advised to read through the IDBs comments to ensure that if the development is approved adequate drainage information is provided.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy

Framework (December 2024) in this regard.

## Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to 'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) 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.

Further, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), 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.

The floor plans show that there would be three bedrooms within the plot, as such, at least two vehicle parking spaces must be provided to be in accordance with Appendix 6. The driveway to the front, as well as the attached garage, should ensure that there would be adequate parking space provided on site, as well as room for turning and exiting in a forward gear.

Lincolnshire County Council have requested further information during the consultation period for this application stating 'Visibility is to be demonstrated in accordance with Manual for Streets. The width of the access should be detailed, and a note should be added to the site plan to say that the access will be constructed to Lincolnshire County Council Specification'.

Due to the issues raised throughout this report, the LPA do not consider the proposal to be acceptable. As such, the LPA have not sought clarification or amendment in this regard, as it was considered unreasonable for the applicant to submit amended plans, for a case in which the LPA were unable to support. In an instance whereby the LPAs decision was subject to an appeal, a condition would be requested to ensure that such details were provided, in order to resolve the issue.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

## 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.

A Biodiversity Statement, Small Sites Metric and Ecological Impact Assessment have all been provided within this application as the development is not exempt from the 10% net gain. The Council's Ecologist has commented on the application to state that they have confidence that the application would be able to achieve a 10% net gain through securing the habitat unit deficit of 0.2486 through offsite gains providing that changes are made to the metric assessment through a pre-commencement condition.

Due to the issues raised throughout the report warranting a refusal overall, the LPA will not attach any such condition to the decision notice. If an appeal was received the LPA would request that conditions be applied to enforce that the necessary and relevant BNG details are provided and the statutory 10% net gain provided.

### Other Matters

As the proposal is a self build, a unilateral undertaking would be required if the application was to be approved. As the recommendation here is for refusal, an agreement has not been sought; however, this may be required should the decision be appealed.

### **Planning Balance**

As detailed above, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The proposal is located outside of the settlement boundaries outlined in Policy 1 of the South East Lincolnshire Local Plan (2019), and is therefore considered to be within the countryside from a planning perspective. The site benefits from a Class Q permission for the conversion of an agricultural building to a dwellinghouse (H09-0420-24), and therefore, this proposal has been assessed on the basis that this new development should provide a betterment, in line with principles of Mansell vs Tonbridge and Malling Borough Council (2017).

To this end, the proposal is not considered to provide a betterment. The scheme would have a significant adverse impact upon the character and appearance of the area, by virtue of its significant scale and positioning. The proposal would increase the levels of overshadowing when compared to H09-0420-24, and therefore can be seen to have a worsening amenity effect. The development would have environmental impacts, to a level greater than the reuse of an existing building (such as in H09-0420-24). While the proposal would provide a biodiversity net gain, it is not considered that this is significant enough to outweigh the harm discussed above, with this requirement being a statutory requirement in any case.

Policies 10 and 17 of the South East Lincolnshire Local Plan (2019) are clear that, while weight should be given in favour of these proposals, the development of self and custom built housing should be consistent with the provisions of the development plan as a whole. This is not the case here for the reasons outlined in this report. As such, the weight attributed to the self build nature of this proposal is reduced and is not significant enough as to outweigh the objections raised.

As such, in short, the proposal represents inappropriate development outside the defined settlement boundary. The development hereby proposed materially harms the character and appearance of the locality as well as failing to provide a betterment in respect of the amenity of nearby residents. Whilst it does provide adequate parking and is acceptable from a flood risk position, the issues raised throughout this report show that it does not conform with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when

viewed as a whole.

In this instance, these are material considerations that weigh against the proposal and as such, the planning balance is not in favour of the development.

## **Additional Considerations**

### Public Sector Equality Duty

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

- A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act
- B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).
- C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

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

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

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

### Human Rights

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

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

## **Conclusion**

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 4, 36 and Appendix 6; however, it would conflict with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). These are significant factors in this case that indicate against the proposal and outweigh the consideration against the proposal and the policies referred to above.

## **Recommendation**

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