

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-1005-24 **Applicant:** Ms C Holmes

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

Location: 98 Dog Drove North Holbeach Drove Spalding

Terminal Date: 11th April 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	1	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1

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

CASE OFFICER ASSESSMENT

Description of Proposal

Full planning permission is sought for the demolition of an existing agricultural building and the erection of a dwelling. This application is made following H09-0420-24, which resulted in the site benefitting from prior approval under Class Q of Part 3 of Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 for the change of use to a dwelling.

The existing building measures approximately 7.45m (width), by 15.9m (depth) with a height of 3.6m. The existing building is well set back from the road. It is constructed of timber slats.

The replacement dwelling would be moved to be closer to the roadside and would incorporate land previously used as garden for 96 Dog Drove North. The dwelling would measure 16.85m (width) by 21m (depth). The proposal would measure 3.64m to the eaves, and feature three staggered roof ridges, of heights consisting of 5.55m, 6.4m, and 7.26m. It is proposed the bulk of the dwelling would be constructed of brick, with the exception of a front projecting garage which would be timber clad.

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

H09-0420-24 - Prior approval. Proposed Barn Conversion into Residential Dwelling. Approved 23/07/24.

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 01/04/19.

H09-1069-10 - Full. Proposed glasshouse and storage shed. Approved 31/03/11.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Senior Ecologist

"I've reviewed the photos that you supplied, as well as the BNG metric and Statement and believe there are three issues that require addressing so that the authority can be confident in the accuracy of the BNG assessment. I write to provide feedback to the applicants below:

1. There is no baseline habitat map with which to interpret the metric information, which makes it difficult to assess whether the metric information is correct/valid. Technically, this application shouldn't have been validated without a baseline habitat map as per UKGov validation requirements (<https://www.gov.uk/guidance/biodiversity-net-gain#biodiversity-netgain-submitting-a-planning-application>), which lists as a requirement: "plan(s), drawn to an identified scale and showing the direction of North, showing onsite habitat existing on the date of application (or earlier proposed date), including any irreplaceable habitat (if applicable)". However, these things can be hard to pick up by validation officers because it is hard to distinguish a suitable baseline habitat map from the more common site plan/layouts.

2. Error in area-habitat classification.- This issue does not significantly alter the metric calculations, however, I believe the habitat area currently classified as "Grassland - modified 2 grassland" in the baseline and habitat-created sections of the metric should be more accurately classed as "urban - vegetated garden" because it appears to be within the curtilage of the existing dwelling (see pages 26-27 of the small-sites metric guidance). However, without a suitable baseline habitat map, it is difficult to determine which area on the ground this information is referring to. Unless there is a good reason to believe this area isn't within the domestic curtilage of a dwelling, then the above correction should be made in the metric and then re-submitted along with the corrections below.

3. Errors in Hedge-habitat calculations.- The hedgerow classification in the metric should not be recorded as a "native hedgerow with trees" because of its urban context. Please see page 28 of the small sites metric guide, which reads: "Trees within overgrown non-native and ornamental hedges (for example, leylandii) should not be classified as individual trees, or as lines of trees. Record these as non-native ornamental hedges within the hedgerow module". However, without a baseline habitat map it is difficult to determine from the photos and google streetview imagery what the most appropriate method is for recording the hedgerow and losses in the metric. To my eye, it looks like it may be most appropriate to record two baseline hedgerows along that northern east-west boundary between the barn and the road where the hedge has been lost (length approx. 31 m long). The row of leylandii in back as a separate "non-native and ornamental hedgerow", and then the "native", shorter plants in front (e.g. Elder, hawthorn, etc), as "native hedgerow" (also approx. 31 m long). Another alternative would be to record the leylandii as above, and then separately record the native trees that have been lost as individual trees. I would refer the applicants to pages 28 and 29 of the small-sites metric to aid them in making this judgement.

Once the corrections/issues above have been addressed, the applicants should re-submit an updated metric along with a clearly labelled baseline habitat map. Then, we will be in a much better position to assess the biodiversity losses for this application and how 10% biodiversity gain may be achieved on-site."

South Holland Internal Drainage Board

Outline that land drainage consent may be required.

Holbeach Parish Council

"Fully support"

Highway and Lead Local Flood Authority

Requests additional information: "In accordance with the approved plans for 0420-24 the access is to be upgraded to Lincolnshire County Council Specification and a note should be added to the proposed site plan."

Historic Environment Officer

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

Public Representations

This application is currently being advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, 1 letter of representation has been received. This can be summarised as follows:

- Design sympathetic
- No undue amenity impacts
- Improvement to the street scene
- Good visibility

Key Planning Considerations

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development - Overarching Discussion

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, 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, Scale and Consideration of the Character of the Area

Section 12 of the National Planning Policy Framework (December 2024), "Achieving well-designed places", states that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality, to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing. Developments should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the South East Lincolnshire Local Plan (2019) 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.

Turning now to an assessment of the development proposed here, the proposed dwelling is significantly larger than, and on an entirely different footprint to, the existing agricultural building on site. The significant increase in scale would therefore exacerbate any potential character impacts emerging from the development, when compared to those emerging from H09-0420-24. The resultant dwelling would have a footprint area approximately 50sqm greater than its nearest counterpart in terms of scale (which would be 96 Dog Drove North, measuring at approximately 190sqm footprint compared to the approximate 240sqm of the proposed dwelling here). The proposal would therefore represent a relatively significant departure from the established built form of the area.

The effect of this significant scale is increased by the relatively small plot size, resulting in a cramped form of development, at odds with the more spacious character of the area. The claustrophobic effect of the development would be worsened by its impact upon 96 and 98 Dog Drove North, which would both see their plot size decreased due to the development; therefore, making both of these plots appear more cramped as a result. To this end, the proposal would conflict with Paragraph 53 and 56 of the NDG.

The impacts of this proposal are further exacerbated by its positioning. In repositioning the scheme to approximately 15m from the roadside, the development becomes more imposing. This then exacerbates the visual effect of the relatively small plot and its relationship with adjacent dwellings, to create 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.

Turning to the materials of construction, no clear indication of the brickwork or timber cladding has been provided at this stage. With the exception of the existing agricultural building on site, timber is not a common material in the area. To this end, the agricultural building is somewhat of an outlier, although this can be excused somewhat by its practical nature. Timber cladding is not paired with brickwork at any point in the immediate area. To this end, the effect of the two materials together would be to create an incongruous development, which fails to respect existing precedent. As such, the proposal is considered to be contrary to Paragraphs 53 and 57 of the NDG. The effect of this incongruous design is exacerbated by its prominent positioning in the street scene.

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).

Impacts Upon Resident Amenity

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. Policies 2 and 3 of the 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 proposal is not considered to represent a significant overlooking concern. The positioning adjacent to the roadside results in only views of the public realm being obtainable by the development. As such, the tangible impacts are low.

That being said, the proposal would lead to overshadowing of 96 Dog Drove North. Given the south to north orientation, and the positioning of windows within 96 Dog Drove North, this impact is likely to be notable. Whilst this 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.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) is titled 'Promoting sustainable transport'. Within this, Paragraph 116 advises that "development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios".

In respect of highway matters, Policy 2 details that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the South East Lincolnshire Local Plan (2019), in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms. It is considered ample space has been provided to meet this parking need.

The proposal would result in the creation of a new site access, rather than the utilisation of an

existing access as proposed under H09-0420-24, without blocking up any of the existing accesses to the site. It could be argued that this creates a somewhat confusing layout, with three accesses all opening onto the road in a relatively short space of time. The Highway Authority have requested additional information, in the form of confirmation that the access is upgraded to LCC standards. This information has not been sought due to the principle issues identified above; however, a condition to this effect could be imposed if required.

It is not considered that a severe impact would occur, in accordance with Paragraph 116. No objection has been raised by the Highway Authority and ample visibility has been maintained in both directions.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the South East Lincolnshire Local Plan (2019), as well as Section 9 of the National Planning Policy Framework (December 2024).

Impacts of Climate Change

In respect of the climate emergency, Section 14 of the National Planning Policy Framework (December 2024) 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 ensure that, where development is brought forward in areas which are vulnerable, "risks can be managed through suitable adaptation measures, including through incorporating green infrastructure and sustainable drainage systems; and help to reduce greenhouse gas emissions, such as through its location, orientation and design".

Paragraph 166 of the National Planning Policy Framework (December 2024) details that when determining planning applications, Local Planning Authorities should "expect new development to: a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption", with 'significant weight' given to "the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights)".

Paragraph 161 of the National Planning Policy Framework (December 2024) states that the planning system should help contribute to "radical reduction in greenhouse gas emissions" and "encourage the reuse of existing resources, including the conversion of existing buildings".

The construction process would result in obvious environmental harm (via mineral extractions for construction materials, emission release during their refinement etc), beyond what would be expected via the reuse of an existing building (as would be the case if H09-0420-24 was implemented). While the principles established under *Marks & Spencer v Secretary of State for Levelling Up, Housing and Communities* are acknowledged, it is not considered that the proposal has demonstrated that redevelopment would be a betterment in terms of carbon emission reduction.

To this end, when considered in the context of betterment which the Class Q fallback position necessitates, the proposal can be seen to be contrary to the provisions of Section 14 of the National Planning Policy Framework (December 2024) with respect to the climate emergency.

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.

As a self-build dwelling, the proposal is under no requirement to demonstrate net gain under part 8 of the Biodiversity Gain Requirements (Exemptions) Regulations 2024.

That being said, the Senior Ecologist has identified several errors with the submitted information. As this information is not strictly required, it is not considered necessary to request the additional information asked for by the Ecologist.

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, positioning and choice of materials. 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.

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.

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 these factors into consideration, the proposal is considered to conflict with Policies 1, 2, 3, and 31 of the South East Lincolnshire Local Plan (2019), as well as Sections 12 and 14 of the National Planning Policy Framework (December 2024). There are no significant factors in this case that would outweigh the harm of the proposal; therefore, the planning balance is against the proposal.

Recommendation

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