

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-1079-24 **Applicant:** A Sukerno
Proposal: Proposed residential development - 9 dwellings
Location: Hooks Of Holbeach Land Adj & Including 45 Fleet Street Holbeach
Terminal Date: 28th February 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01 Spatial Strategy
02 Development Management
03 Design of New Development
04 Approach to Flood Risk
10 Meeting Assessed Housing Requirements
11 Distribution of New Housing
28 The Natural Environment
29 The Historic Environment
30 Pollution
36 Vehicle and Cycle Parking
APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2. Achieving sustainable development
Section 5. Delivering a sufficient supply of homes
Section 11. Making effective use of land
Section 15. Conserving and enhancing the natural environment
Section 12. Achieving well-designed places
Section 14. Meeting the challenge of climate change, flooding and coastal change.

Representations:

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

SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	3
RESIDENTS	2	0	0	0

CASE OFFICER ASSESSMENT

Proposal

This proposal seeks full planning permission for the erection of nine dwellings at land adjacent and surrounding 5 Fleet Street, Holbeach, Spalding.

Site Description

The site is within a short distance of the historic town centre where several services and facilities are available. A wide range of housing types, ages, designs and appearances has been observed in the area. It is a large corner plot onto the highway junction between Fleet Street (south) and Edinburgh Walk (west). The site benefits from two vehicular accesses. The widest crossover is Fleet Street whereas a narrower access is on Edinburgh Walk adjoining No. 2.

The site is currently disused and used to be associated with local building material supplier Hook of Holbeach Ltd. No. 45 is a large two-storey detached dwellinghouse under the applicant's ownership. Immediately to the east, No. 43 is another two-storey residential property. To the rear, a large flat-roof building hosting the main premises of Hook of Holbeach Ltd. Further outbuildings used for storage and workshop adjoin the northern boundary with No. 2 Edinburgh Walk and No. 1 Creewood Lane. To the east, is the care home Mayfield House. To the west opposite the road, is Holbeach Police Station.

History

H09-1393-00 - OUTLINE - Use of the site for the erection of one residential dwelling and garage - Approved

H09-1160-20 - OUTLINE - Residential Development for 6 dwellings - Approved

H091074-23 - OUTLINE - Proposed Residential Development - 6 Dwellings - Approved

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:

Holbeach Parish Council

Fully support

SHDC Environmental Protection Officer

I request a standard land contamination condition be applied at this location.

I have no comments to make regarding Environmental Protection.

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate. A surface water development contribution is likely to be payable as a condition of any consent granted under Byelaw 3 in line with the WMA's Development Control Charges and Fees.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary, however this should be confirmed by the applicant. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply

Lincolnshire Police

Lincolnshire Police do not have any objections to this application.

Where it is beneficial and desirable to limit access and use for residents and other legitimate users design features such as rumble strips, change of road surface (by colour or texture), demarcation pillars or other design features may be used. Such design features can help to define the area psychologically as being private.

The benefits of long-term community cohesion and sustainability are both evident and self evident and there is compelling evidence that crime is one of the principal factors why people who can, will want to move away from their current neighbourhood. If a neighbourhood or development is not fulfilling their social and environmental needs particularly those relating to the fact and fear of crime and anti-social behaviour, those who can seek to move and undervalue the benefits of long-term community cohesion and environmental sustainability of any development.

Historic Environment Officer

Thank you for consulting us on this application.

Thank you for consulting us on this application. It is noted that the applicant has not provided an assessment of the archaeological or heritage potential of the site, as outlined in the NPPF (paragraph 207).

The proposed site is located in an area of high archaeological potential. The HER (Historic Environment Record) includes information about known Heritage Assets within the proposed site: Monument record MLI20227 - Medieval settlement of Holbeach and Monument record MLI20557

post Medieval settlement of Holbeach. To the northeast of the site, a survey detected 'A number of anomalies representing possible archaeological features including cut features and pits were observed.': ELI7594 - Geophysical survey on land off Battlefield Lane. To the west, archaeological interventions exposed archaeological remains: ELI2572/ELI4267 - St. John's Street. To the southwest of the proposed an intervention exposed archaeological remains ELI9030 - Watching Brief on Land to the Rear of 42 Fleet Street.

The proposed development comprises 'Proposed residential development - 9 dwellings'. The proposed development groundworks and any temporary works associated with the development (including landscaping, drainage connections and BNG planting) will have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if present.

present. As mentioned above, there is potential for development on this site to have an impact on buried remains that should be recorded prior to their destruction - NPPF (paragraph 218). There is archaeological potential, and we do not possess evidence that previous limited construction activity entirely disturbed/truncated possible present heritage assets. I recommend that if permission is granted, there be an archaeological condition for a mitigation strategy to effectively deal with this site. This will comprise a post demolition phased approach of archaeological investigation and mitigation work.

This will initially comprise but may not be limited to a trial trench evaluation of the site which should aim to determine the presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development as noted above and to inform a programme of further archaeological mitigation work which may be required if archaeological remains are identified in the evaluation.

This will enable any remaining archaeology which currently survives on this site to be properly assessed and recorded prior to their alteration or destruction.

This should be secured by South Holland District Council's standard conditions AR01, 02 and 03 and is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29).

218 and the South East Lincolnshire Local Plan (Policy 29). With respect to the attached archaeological conditions, please contact the Historic Places team at Lincolnshire County Council, Lancaster House, 36 Orchard Street, Lincoln, LN1 1YL, 07386 656079, email ruben.lopez@lincolnshire.gov.uk to discuss the requirements and request preparation of a brief for the works.

It is recommended the resulting mitigation strategy and Written Schemes of Investigation are approved by the LCC Historic Environment Officer prior to formal submission to the Local Planning Authority. Ten days' notice is required before commencement of any archaeological works.

LCC Highway and Lead Local Flood Authority

ADDITIONAL INFORMATION REQUIRED

The access widths are to be detailed on the proposed site plan. The access proposed to be shared should measure 4.1m for the first 10m thereafter it should be a minimum of 3.7m.

The Red line in is the highway. The public highway goes up to the existing build line on Edinburgh Walk this needs amending. A street scene drawing is required of plots 1-4.

Senior Ecologist Comments

Yes, I've reviewed the PEA/BNG assessment and metric, and find that there are issues with the BNG assessment related to the lack of labels in the baseline habitat map and the lack of an interpretable post-development habitat map, which make it difficult to interpret the information within the metric. However, despite these problems, I would judge that the authority can be reasonably confident that the proposal can achieve the 10% mandatory BNG requirement due to the relative ecological simplicity of the site.

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, 2 letters of representation have been received.

These can be summarised as follows:

- The original approval was for a bungalow, now current proposal is double the size
- The proposed house is not well spaced and goes almost to the boundary
- Would have detrimental overshadowing and privacy implications for residents
- Plot 9 would not sit well within the available space
- Overdevelopment
- Concerns regarding the teeth drop windows and glass dome on top of the building
- Unsuitable design characteristics
- Concern regarding unlawful use taking place

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.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

The Authority is able to demonstrate a supply of deliverable sites equivalent to in excess of 5 years through the latest Housing Land Supply Assessment.

Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order.

The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy in respect of sustainable development are areas of limited development opportunity including 'Minor Service Centres', with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within 'Main Service Centres', development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities.

The National Planning Policy Framework, (NPPF) (December 2024) outlines, within Paragraph 61, that "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the

needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay".

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

The application site in this instance is within Holbeach, a 'Main Service Centre', and lies within the defined settlement boundaries as detailed by Policy 1. In context of this, the principle of residential development within this location is considered to be appropriate, comprising an appropriate form of development for the location and would be in accordance with the overall principles of the spatial strategy.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019) when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, impact on highway safety and flood risk, which are discussed in turn as follows.

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

Section 12 of the National Planning Policy Framework (December 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.

The proposal relates to the demolition of No.45 to 47 Edinburgh Walk and No.45 Fleet Street with the erection of 9 dwellings, the scheme comprises 8 semi-detached dwellings, with one large

detached. Four of the semi-detached dwellings would be located off Edinburgh Walk, with the remaining dwellings being located off Fleet Street.

Plot 1-8

Proposed plots 1-8 would be semi-detached dwellings. Plots 1-4 would be located off Edinburgh Walk, with Plots 5-8 being located off Fleet Street.

Following the proposed demolition of No.45-47 Edinburgh Walk, the resultant character of this eastern side of Edinburgh Walk (plots 1-4) would comprise a fairly consistent and linear form of residential properties, that are sited with a consistent pattern. This being residential properties that comprise similar degrees of setback distance from the highway, with private frontage parking. When viewing the surrounding character to the northern side of Fleet Street, between Edinburgh Walk and North Parade (plots 5-8), the built form is also fairly consistent, with the existing residential properties comprising a similar degree of set back from the highway. This section of Fleet Street comprises no immediate highway fronting properties.

The proposed development comprises eight residential dwellings that are designed to immediately front onto the highway of Edinburgh Walk and Fleet Street, consisting of a siting and layout that is inconsistent with the surrounding context and street scene along both Edinburgh Walk and Fleet Street. The scheme proposes a shared parking court to the rear of the plots, forming a detrimental and poorly designed form. Furthermore, the proposed dwellings, comprising a semi-detached form, would also be excessive in height compared to the immediately neighbouring built forms, proposing a height in excess of 10.0 metres for Plots 1-4, which is neighbouring a chalet bungalow and a height in excess of 9.0 metres for Plots 5-8.

Plot 9

The proposed development of Plot 9 would comprise a large, detached dwelling accessed off Fleet Street. The location of the dwelling would be set back from the rest of the development, that has a road frontage. The proposed dwelling would measure approximately 17.4m by 9.6m with a two storey front projection of 14.5m, with a maximum height of 9.03m. There are no examples of residential dwellings of this size within the area. The design of the dwelling includes heavy glazing to the front elevation of the dwelling, with a two storey front projection being of a front link design, there are no examples of heavy glazing within the area.

The dwelling is of an extensive scale and comprises a convoluted and contrived design, which is out of keeping with that of the surrounding context of residential dwellinghouses. In addition, due to the siting of the triple garage associated with Plot 9, which is two-storey in scale, being located forward of the principal elevation, this form creates an additional unacceptable and harmful impact upon the street scene of Fleet Street.

Furthermore, when viewing the surrounding character to the northern side of Fleet Street, between Edinburgh Walk and North Parade, the built form is fairly consistent, with similar degrees of set back from the highway. The location of plot 9 which comprises relatively open land, coupled with the degree of setback of neighbouring built forms and the large scale of the proposed dwelling and triple garage, is such that the proposed built form would be readily visible and increasingly prominent, and would provide a resultant form that is unduly and unsuitable extensive within the street scene, further exacerbating the harm caused to the character of the area.

The proposed scheme, by virtue of its quantum of development, design and scale, is not considered to comprise an appropriate design and is considered to be contrary to Policy 2 and 3 of the SELLP and fails to accord with Section 12 of the National Planning Policy Framework (December 2024).

Taking account of the design, scale and nature of the development, as detailed above, the proposal is not considered to be acceptable. The proposal would cause an adverse impact to the character and appearance of the area and would therefore not be in accordance with Policies 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.

The proposed development proposes a layout that would ensure adequate separation distances to neighbouring properties. The proposed development is considered to form an appropriate design as to minimise the potential for overlooking to the existing neighbouring dwellings, with no first floor windows on the side elevations with regards to plot 1-8.

However, notwithstanding the points raised, predominantly in respect of overlooking and privacy, the proposed development with regards to plot 9 would result in an increase in built form immediately neighbouring Mayfield Rest Home, which would be immediately east of the proposed dwelling, comprising an unsuitable scale in respect of floorspace and height, which would be immediately east of the proposed dwelling, resulting in an unacceptable loss of outlook and loss of light to windows, with the development comprising a three storey form. The siting of the proposed dwelling within the plot means that the proposed dwelling would run along the whole length of the western elevation of Mayfield Rest Home and would clearly be visible from the western windows of Mayfield Rest Home, further increasing the impact to the neighbouring dwelling. Further, the marked increase in scale of the built form, and the resultant 'bulk' of development is considered to cause an unacceptable impact to the residential amenities of current and future occupiers of this neighbouring care home.

As detailed above, the scale and design of the proposal is considered to be such that there would be a significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is not considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

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 following comments were received from LCC Highways: *"The access widths are to be detailed on the proposed site plan. The access proposed to be shared should measure 4.1m for the first 10m thereafter it should be a minimum of 3.7m.*

The Red line is in the highway. The public highway goes up to the existing build line on Edinburgh Walk this needs amending. A street scene drawing is required of plots 1-4."

Clarification on the above matters during this application process was not sought due to the unacceptability of the proposal, as outlined above. If an application was to be submitted in the future, then the concerns raised in respect of highways matters and the drawing concerns raised would need to be addressed by the applicant. However, the previous comments with regard to the

layout and parking arrangements are considered to be unacceptable, in respect of design and their impact upon the character of the area. The rear parking results in a cramped feel and poorly designed feature.

Flooding Considerations

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 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the 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 Residual Flood Hazard Map for the 1% fluvial and 0.5% tidal event shows the site being outside of low hazard area for the present day, and for 2116. The Residual Peak Depth Map for the 1% fluvial and 0.5% tidal shows that the site is outside of the area at risk in the present day, and for 2116.

Mitigation has been proposed including finished floor levels being 0.3m above surrounding ground

level and 0.3m of flood resilient construction above finished floor levels. These mitigation measures would be subject to a condition.

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.

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

When taking the above into account, the development in this instance is not exempt from the statutory 10% Biodiversity Net Gain requirements.

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 represents inappropriate development within the defined settlement boundary. The development hereby proposed materially harms the character and appearance of the locality, and amenity of nearby residents. The proposal is directly in conflict with Policy 2 and 3 of 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 significant material considerations that weigh against the proposal and as such, the planning balance is against 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 into consideration these factors, the proposal is considered to conflict with Policies 2 and 3 of the South East Lincolnshire Local Plan (SELLP), 2019; in addition to the identified sections contained within the National Planning Policy Framework (NPPF) (December 2023). These are significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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