

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-0261-25 **Applicant:** Mr & Mrs Smith
Proposal: Erection of a Self-Build/Custom Build Two Storey Dwelling, Annexe & Garage
Location: Land Off Fen Gate Moulton Chapel Spalding
Terminal Date: 15th May 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
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2: Achieving sustainable development.
 Section 4: Decision making.
 Section 5: Delivering a sufficient supply of homes.
 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	0	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	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	1	0	0

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application for a proposed detached dwelling with attached garage on land west of Fengate, Moulton Chapel. This proposal seeks to provide a two storey dwelling comprising five bedrooms, ensuite bathrooms, a living room, kitchen/breakfast room, a dining room, study and utility, along with a downstairs wc and an annexe and en-suite above the proposed triple garage.

Proposed materials of construction are Crest Old Hambleton facing bricks, with what appears to be black cladding to the garage. The proposed roof would be Redland Grovebury Terracotta pan tiles and the doors and windows are to be cream UPVC.

Site Description

The application site is located west off Fen Gate in Moulton Chapel within the open countryside. The application site is characterised as rural, with open fields to the north, east and west, with dwellings to the south and one residential dwelling to the north east.

History

H13-0459-18 - Full - Proposed detached dwelling with attached garage - Refused 28.06.2018, Appeal Dismissed on 02.04.2019

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:

Historic Environment

The historic environment record (HER) confirms that the site is in close proximity to several heritage assets: MLI84091, MLI20370, MLI20372 and. Also, evidence from previous archaeological interventions indicates existing heritage assets: ELI14140 - Land at Fen Gate: 'Three trial trenches were excavated on land at Fen Gate, Moulton Chapel, to inform the proposed construction of four new dwellings. A post-Medieval pit, ditch and large pond feature were noted.' ELI10614 - Watching brief at the Jolly Farmer Public House, 28 Roman Road: 'A watching brief was carried out during groundworks associated with an extension to the pub. Several undated features were identified as well as a ditch shown on post medieval maps and modern features.'

The site lies in an area of archaeological potential due to a large roddon crests present on site. This has been confirmed by the Lidar and terrain model assessment. Roddon crests in the wider Fen landscape are known to contain areas of archaeological remains, due to these hard, sand and clay filled channels representing areas of 'high' or more solid ground within the wider fen landscape.

The proposed development comprises: 'Erection of Detached Two Storey Dwelling, Annexe & Garage'. The proposed development groundworks and any temporary works associated with the development will have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if 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). We 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 an archaeological 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). 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

Recommendation: Approve with conditions

Comments:

The proposal is for Erection of detached two storey dwelling, annexe & garage and it does not have an impact on the Public Highway. There will be a requirement to provide a new vehicular access off Fengate. Suitable visibility can be provided at the access including sufficient parking and turning facility within the development site to allow vehicles to enter and leave in a forward gear so drivers are able to judge if it is safe to complete the manoeuvre and enter the highway and therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.

We wish to request that the applicant enters a S106 Agreement to secure the funding of £2,800 for Lincolnshire County Council to undertake a Traffic Regulation Order to extend the 30mph speed limit West of the proposed access site on Fen Gate.

South Holland 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 treat foul waste using a BioDisc package treatment plant,

however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) to the outside of the southwestern 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).

Byelaw 10

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

SHDC Assistant Environmental Protection Officer

No comments regarding land contamination or EP.

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, two letters of representation have been received.

These can be summarised as follows:

- We support the principle of annexe development
- The proposal will impact on enjoyment of living
- Live here for the isolation and rural nature of this site
- The land is currently A1 soil
- There is a huge increase in housing in Moulton Chapel on prime agricultural land
- Many houses for sale within Moulton Chapel
- There is a lot of surface water which currently swells onto Fengate
- This will lead to a huge increase of surface water onto Fengate
- Impact on privacy
- Concerns regarding light pollution

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 sets out the settlement hierarchy in respect of delivering

sustainable development that meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

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

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

As such, development within these settlements, subject to the proposals compliance with other relevant national and Local Plan policies, may be considered acceptable in principle where they lie within the settlement boundaries of that settlement.

The application site in this instance lies within a postal area of Moulton Chapel, a settlement that is identified as a Minor Service Centre within Policy 1 of the South East Lincolnshire Local Plan. However, the site itself lies beyond the identified settlement boundaries (approximately 80m) for this settlement, as specified within Policy 1.

Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". The site is located outside the Moulton Chapel Settlement Limits, as defined within the South East Lincolnshire local Plan. It is therefore regarded as being within the countryside in policy terms. As such, the application site falls to be assessed as a 'Countryside' location, as detailed by this spatial policy.

Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at 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.

Development within the countryside is limited to that where it "is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

The supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)". The application site comprises a garden that is not considered to meet the provisions of either of these policies. The proposal comprises one residential dwelling located within the open countryside, located on garden land and therefore does not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use).

Returning to the requirements of Policy 1 of the SELLP, as previously mentioned, it has not been demonstrated that the development of a Custom/Self Build house is necessary to this location. In terms of the 3 dimensions of sustainable development, the following has been considered:

- An economic role:

The development may give limited support to the local economy through employment opportunities associated with some elements of construction and fitting out, and future occupants may work locally and support local services.

- A social role:

The proposal would make a contribution, albeit small, towards housing supply in the District. However, no explanation has been submitted why the development cannot be accommodated within an existing settlement boundary.

- An environmental role:

The environmental objective identifies the need to protect and enhance our natural, built, and historic environment. It has not been demonstrated that the development is necessary in this location and how it would protect/enhance the existing character of the area.

If permitted, the proposal would also encourage further applications of a similar nature in the open countryside which would then be hard to resist, contrary to the objectives of the Framework to pursue sustainable development and the aim to protect the character of the countryside.

The proposal would introduce a new residential unit in the countryside. It has not been demonstrated how the benefit of such a proposal would outweigh the impact upon the environment. Whilst other material planning considerations could be accepted, the principle of the development would not be considered acceptable given the site is in the open countryside.

The application has not been supported by any housing needs survey, nor additional supporting evidence of a similar nature, to demonstrate that a dwelling of this nature is required, or would provide a provision that meets an identified local housing need for the settlement to which it would be located within closest proximity.

The proposal therefore conflicts with Policies 1, 2 and 3 of the South East Lincolnshire Local Plan, 2019. Policies 2 and 3 are concerned with protecting the character and appearance of the area, as well as consideration of the relationship with existing development and land uses.

These policies are in accordance with advice within the National Planning Policy Framework, (December 2024). Paragraph 135 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area and also be sympathetic to local character and history, including the surrounding built environment and landscape setting.

It should also be noted that the same scheme was submitted under application H13-0459-18 which was refused and dismissed at appeal. The Planning Inspector came to the same decision stating *"Consequently, the proposed development would not provide a suitable location for housing, having particular regard to accessibility of services and facilities. It would not accord with LP Policy 1 which directs developments within settlement boundaries or with LP Policy 11 which directs new housing to allocated sites within settlement boundaries. It would also conflict with the Framework in terms of environmental sustainability and sustainable transport."*

Since the planning appeal, there have been no material consideration changes to come to an alternative outcome. It should also be noted at the time of the appeal, the Local Planning Authority did not have a 5 year land supply, which we now do have.

Whilst it is noted that the application site would lie within an area of land immediately to the north of fairly modern development, the site itself comprises an agricultural field. Beyond this, and whilst being immediately neighbouring the aforementioned development, the settlement boundary, in which Policy 1 discusses, lies further south than this built form, lying approximately 80m from the site. In any event, the settlement to which the site lies within closest proximity to, Moulton Chapel, is considered to be a 'Minor Service Centre'; and as such, comprises only the third most sustainable area for development opportunity, following the sub-regional centres and main service centres. Irrespective of this, the proposal would lie within a countryside location, in which would extend into the open agricultural land, in policy terms.

Beyond this, it is also worth noting that the matter of whether the proposed development would provide a suitable location for housing, having particular regard to accessibility of services and facilities, was specifically addressed under the aforementioned appeal decision. The inspector

stated that *"there are a limited number of services in Moulton Chapel including a primary school and two public houses. However, the range of services and facilities available in the village are insufficient to meet the day to day needs of its residents"*. These circumstances have not notably altered and the Local Planning Authority maintain the position and consideration as outlined by the inspector.

Furthermore, when considering the settlements that could offer a wider range of services and facilities, these are not viewed to be within a reasonable walking or cycling distance of the application site. This matter was addressed by the inspector during the previous appeal on site, concluding that *"the nearest settlements such as Moulton and Cowbit that offer a wider range of services and facilities are not within a reasonable walking or cycling distance of the appeal site"*.

It should also be noted that a bus stop lies within a fairly reasonable distance from the site, which would be walkable; however, the presence of a bus service, which itself would offer limited flexibility, would not remove a reliance on private vehicles for daily requirements entirely. Furthermore, the site has no footpath connectivity to the settlement, when viewed in respect of that defined within the settlement boundary, nor to the bus stop.

Consequently, notwithstanding the fairly close proximity of the site to the neighbouring, the proposed development would not provide a suitable location for housing, when viewed in principle, in respect of Policy 1, and when viewed in respect of its locational characteristics.

As such, the proposal is not considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan (2019) when viewed in principle.

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 proposed development would consist of a large, detached dwelling and attached garage with an annexe above, that would be located on land that is an open field. Whilst the application site is adjacent to a number of dwellings to the south, given that it is an open field bound on two sides by open countryside, the site more closely relates to the open countryside than with the ribbon of built development along Fengate. The proposal would introduce new development that would substantially alter the landscape character of the site and extend the built-up area of Moulton Chapel into the countryside.

It is noted that there are dwellings to the east (on the opposite side of the road); however, these properties are visually detached from the village and read as part of the countryside rather than part of the settlement. In any event, the siting of these to the eastern side of the road, as opposed to the western side, provides an alternative circumstance in respect of the landscape and built character when viewed in comparison to this western side to which the proposal relates.

Taking the above into account, given the strong relationship of the application site with the open countryside, in addition to the existing built form to this western side (which terminates at No.42 Fen Gate) which provides a clear termination and focal end to the built development prior to the notable landscape and character change along Fen Gate, the proposed development would be a unacceptable intrusion into the open countryside. This relationship and its resultant impacts would be further exacerbated through the siting of the proposal, which lies beyond an existing access track that provides vehicular movement to the agricultural land, which would be retained. The retention of such, would provide a further segregation from the built form, which enhances the encroachment into the countryside physically, but also increases the visual intrusion.

Taking the above into account the proposal would cause harm 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 closest neighbouring dwelling is located to the south of the proposed dwelling (No.42 Fen Gate). The proposed dwelling would have a separation distance of approximately in excess of 10m from the closet's elevation of No.42 Fen Gate, however, there is a field access track separating the proposed dwelling and the neighbouring property. The southern elevation of the proposed dwelling only proposes one roof light within the roof of the proposed annexe. As such, the proposed development will not have a material adverse impact on residential amenity, in terms of creating overlooking, loss of privacy or loss of lights to No.42 Fen Gate.

Concerns have been raised from the neighbouring dwelling to the east, however, the closest elevation from the proposed dwelling to the neighbouring property to the east has a separation distance in excess of 52m. As such, the proposed development will not have a material adverse impact on residential amenity, in terms of creating overlooking, loss of privacy or loss of lights to Beech House, Fen Gate.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of 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 proposed dwelling would have five bedrooms, along with an annex. There is adequate provision for parking, the property would be accessed off Fen Gate and would have ample parking. It is therefore considered that the proposal will not have an adverse impact on the public highway.

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 of the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

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 1 and 2 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 2115. 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 2115. Given that the application is located mainly within Flood Zone 1 with a low probability of flooding the site is located within a sequentially preferable location in flood risk terms.

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 exempt from the statutory 10% Biodiversity Net Gain requirements. A Biodiversity Net Gain statement was submitted with this application, stating that the proposed dwelling would be a custom/self-build. This would usually be

secured with a Unilateral Undertaking, however, due to the unacceptability of the principle of proposal this has not taken place.

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 outside the defined settlement boundary. The development hereby proposed does not materially harm the amenity of nearby residents, and provides adequate parking. However, it directly conflicts with Policy 1, 2 and 3 of the South East Lincolnshire Local Plan due to it being outside of the defined settlement boundary and the impact to the character and appearance of the area.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is 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 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 (December 2024). 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.