

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0851-24 **Applicant:** Houghton Produce Ltd

Proposal: Demolition of agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential

Location: Land North Of Fengate Road Pinchbeck Spalding

Terminal Date: 20th December 2024

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
17	Providing a Mix of 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 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
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
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application seeking permission for the demolition of an agricultural building and the erection of four dwellings at land to the north of Fengate Road, Pinchbeck.

Site Description

The site is located outside the defined settlement boundary of Pinchbeck as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP).

History

H14-0367-03 - Agricultural storage building - Approved

H14-1092-23 - Demolition of agricultural building, erection of 5 dwellings including new access/road and change of use of agricultural land to residential - Withdrawn

Consultation Responses

Pinchbeck Parish Council

In keeping with the area.

Welland and Deepings Internal Drainage Board

Thank you for your consultation on the above application.

If at any point in the future either a surface or foul water discharge into any watercourse is proposed then the prior written consent of the Board will be required. Any application made for consent will be subject to the agreement of technical details, payment of the application fee as well as payment of any necessary development contribution.

Lincolnshire County Council Highways Authority

Recommendation:

No Objections

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected

to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Comments:

The proposal is for the demolition of an agricultural building, erection of 4 dwellings including new access & change of use of agricultural land to residential. There are no connecting footways to the site and the residents of the site will be wholly reliant upon the car to access facilities however, there is an existing dwelling adjacent and more dwellings along Mill Green Road. The access to the site will be constructed to Lincolnshire County Council Specification and affords good visibility where the speed limit is 30mph. Each dwelling has a double garage of adequate size to park two cars and a parking space which is acceptable. The vehicle movements associated with the proposal will be a reduction to those that could be produced with the existing use. The proposal will not have an adverse impact on the public highway.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Informatives

Highway Informative 03

The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. Any traffic management required to undertake works within the highway will be subject to agreement. The access must be constructed in accordance with a current specification issued by the Highway Authority. Any requirement to relocate existing apparatus, underground services, or street furniture because of the installation of an access will be the responsibility, and cost, of the applicant and must be agreed prior to a vehicle access application. The application form, costs and guidance documentation can be found on the Highway Authority's website, accessible via the following link: <https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb>.

Highway Informative 04

The road serving the permitted development is approved as a private road which will not be adopted as a Highway Maintainable at the Public Expense (under the Highways Act 1980). As such, the liability for the future maintenance of the road will rest with those who gain access to their property from it.

Highway Informative 08

Please contact the Lincolnshire County Council Street works and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections, Section 50 licences and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works. For further guidance please visit the Highway Authority's website via the following link: Traffic Management - <https://www.lincolnshire.gov.uk/traffic-management>

South Holland District Council Environmental Protection

No observations, I request a standard land contamination condition be applied at this location.

Key Planning Considerations

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses

- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity

Evaluation

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above .

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

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.

Planning Considerations

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 'Minor Service Centres', development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. This policy goes on to detail that development within 'Minor Service Centres' will normally be limited to Allocated and Committed sites and infill.

The National Planning Policy Framework, (NPPF) (December 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 the postal area of Pinchbeck, a Main Service Centre. However, the site itself lies detached from the main built form or built-up area of Pinchbeck, or any built-up settlement and lies beyond the clearly identified settlement boundaries for this settlement, as defined by Policy 1 and its associated inset maps.

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 Pinchbeck 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.

Principle of Development - Custom and Self Build

The proposal has not been specifically identified as a custom/self-build; with the application form specifically identifying these as 'Market Houses'. In any event, the policy in this context should be reviewed given the detail of the proposal; in reviewing local policy in respect of 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 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. Similarly, an Inspector concluded in a recent 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. This demonstrates the above point in practice. The site in this instance lies outside of the defined settlement boundaries and therefore fails to accord with this, in that the text clearly refers to the anticipation of sites being 'within the defined settlement boundaries'.

The South East Lincolnshire Local Plan 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. As such, regardless of the local authorities consideration of the development as 'custom build' or not, this would not result in the proposal being suitable in an unsustainable location without regard to outweighing benefits.

However, open market housing, which this would be considered to be, is not a development type that specifically requires a countryside location. This is particularly the case in this instance where the Council has a development plan with a spatial strategy setting out how the housing needs for the area will be met.

Principle of Development - Open Countryside

Returning to the principal matter in respect of the principle of development in the open countryside, 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 land that currently sites an agricultural building and is not considered to meet the provisions of either of these policies. The proposal comprises four new residential dwellings located within the open countryside, located on land currently occupied by the aforementioned agricultural building, which is yet to be developed and as such, seeks to replace an agricultural building with four residential dwellings. Therefore, when considered in its current form, in isolation of other matters, the proposal would 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) as the building is not residential in nature currently and the proposal seeks to entirely demolish the existing agricultural building and cannot therefore be considered as a 'conversion'.

The proposal, based on the detail above, therefore conflicts with Policies 1 of the South East Lincolnshire Local Plan, 2019 and therefore is at conflict with the South East Lincolnshire Local Plan. As such, the proposal would not be acceptable in principle.

Principle of Development - Class Q Fallback

Further to the above assessment of the principle of development, a significant consideration for this proposal relates to the 'Class Q fallback'. It is important to note that the site is not subject to an extant consent under Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015. It is however considered that Class Q approval could be sought should one be submitted for at least four dwellings within the existing agricultural building, as such, the relevant case law should still be taken into consideration.

The submission highlights, within the submitted covering statement that: "For this application, a prior approval application has not been submitted first, however it can be demonstrated that a permitted development would be allowed on site due to the nature of the existing buildings. The fallback position also does not require a Class Q to be gained, just that it can be demonstrated that it could be. A scheme was advanced to demonstrate that the limitations and conditions of the legislation could be met"

The overarching result of the case law identified by the applicant as detailed above is not disputed by the Local Planning Authority, with a need for 'fallback positions' to be considered.

Beyond this, specifically relating to 'Class Q development and its subsequent fallback, the Court of Appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' provides a significant benchmark and consideration. This case concerned the grant of permission for a four dwelling scheme on land which was presently occupied by a single bungalow and agricultural buildings. The council in this case, granted permission forming the view that a fallback position was present given that the agricultural buildings 'could' be subject to a prior approval under Class Q, which 'could' have provided a resultant development of the same quantum of residential dwellings (three dwellings via Class Q and the retention of the existing bungalow).

This case, which was quashed by the High Court, was subsequently 'reinstated' through the Court of Appeal. With the Court of Appeal establishing through this case 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.

In respect of a 'realistic prospect', this case highlighted that that of 'Sullivan L.J.'s judgment', in that "a 'real' prospect is the antithesis of one that is 'merely theoretical' (paragraph 20). The basic principle is that 'for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice' (paragraph 21)". This went on to detail that "when the court is considering whether a decision-maker has properly identified a 'real prospect' of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the 'real prospect' will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO".

As such, "in some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand". However, in the case of 'Mansell vs Tonbridge and Malling Borough Council', it was stated that to not consider the fallback of Class Q (even if there is not evidence of a specific proposal under Class Q), would "have been a failure to have regard to a material consideration, and thus an error of law". This clearly demonstrates the need to assess and review the fallback position in respect of Class Q development.

In any event, the court decision also reiterated that "They should remember too that the making of planning policy is not an end in itself, but a means to achieving reasonably predictable decision-making, consistent with the aims of the policy-maker. Though the interpretation of planning policy is, ultimately, a matter for the court, planning policies do not normally require intricate discussion of their meaning".

It stands to reason that, where the alternative new-build proposal offers either an enhancement to the setting, a reduction in density or betterment in overall development, when compared to the fallback, the development could (and perhaps should) be allowed to proceed.

As previously stated, no Class Q approval has been sought on this site; it is however considered that should one be submitted, it could be approved for at least four dwellings within the extant agricultural building. The submission goes on to state 'For this application, a prior approval application has not been submitted first, however it can be demonstrated that a permitted development would be allowed on site due to the nature of the existing buildings. The fallback position also does not require a Class Q to be gained, just that it can be demonstrated that it could be'.

The Local Planning Authority consider that the proposal put forward is of notable improvement in respect of its architectural merit and associates well within the agricultural history through the design appearing 'barn like' in many aspects. It is considered that a betterment has been achieved, through visual appearance, design and consideration of the resultant developments sustainability, and deems the proposal acceptable in light of the aforementioned fallback position.

As such, it is considered that, notwithstanding the lack of previous permission, whilst the proposal has no previous Class Q permission the aforementioned fall back remains and the proposal is able to provide a betterment that positively reflects the characteristics of the site, character and context of the surrounding area and makes a positive contribution to the appearance of the site. On balance, taking account of the above considerations, it is considered that the benefits of the proposed development compared to the identified fallback position are a material consideration, and do outweigh any concerns.

The proposal is therefore considered to be acceptable in principle and whilst conflicting with Policy 1, it has an adequate Class Q fallback and conforms with Policies 2, and 3 of the South East Lincolnshire Local Plan and the relevant provisions of the National Planning policy Framework (December 2024)

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 existing site comprises an agricultural building which is not of significant quality. Despite this, it clearly reflects the agricultural context of its surroundings. The overall design of each plot represents a barn style/rural design in some way through its characteristics and main features. Including, but not limited to, barn style doors particularly on Plot 1 (east elevation), Plot 2 & 3 (all elevations) and Plot 4 (north elevation).

Plots 1, 2 and 3 all feature identical materials throughout, these are; clay pantiles, cast iron effect rainwater goods, red bricks, top hung timber windows, timber garage doors, timber front door with slide glazing, timber sliding doors and solar panels. Whereas Plot 4 features a different garage door and is without solar panels. These materials are considered to be adequate and acceptable, all plots will look similar and/or identical to ensure they remain in character with each other whilst also featuring a high level of agricultural and barn aesthetic to them.

All plots are also of similar sizes to each other with Plot 1 and 4 being extremely similar; whereas Plots 2 and 3 are semi-detached being of the same size as the others just proportioned in half. This ensures they fit well within the site itself and does not appear cramped or overdeveloped in any case.

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

Firstly, the existing residential property on site, known as Almauren, is set around 50m to the east of the development site and therefore this is an adequate separation distance that will ensure no material harm will arise through overshadowing or overlooking.

Plot 1 features windows to the front and rear elevation, no windows will be on the side. The rear windows will only have a view into the field to the west which remains at this point as undeveloped land. The front windows would cause no material harm to Plots 2 and 3 as there are no side windows within this plots in which the front windows could look into and the amenity spaces are set

further back than any front elevation window. Overall, there is not considered to be any material overlooking. Finally, due to the positioning of the plot there will be no material overshadowing to the east (Plot 2) as the garden isn't level with any of the property.

Plots 2 and 3 also feature no side elevation windows to reduce any chances of overlooking. In the same light to the above, the rear windows will not face any other plot and will directly overlook their own rear garden with trees to the very rear of their plot/curtilage. The front windows would also only serve a direct view into the front small front gardens/driveway and therefore not in any private amenity space. Plots 2 and 3 will not overshadow any plot(s) in any aspect due to separation distances and positioning, to an unacceptable degree.

Finally, Plot 4, is laid out in a similar way to the aforementioned dwellings. The rear windows would only look into their own gardens and could potentially have a view onto the highway to the rear of the site but this would mostly be covered by the extant trees. No side windows are featured and the front windows would only view the garden and driveway. No unacceptable overlooking or overshadowing would occur from this plot either.

Due to the plot being heavily concealed from public view due to high mature trees surrounding the site it should also not appear overbearing. Whilst it is considered there will be an increase in noise during construction, as there is a minimal number of dwellings in the immediate area this should not cause significant harm.

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).

Flood Risk and Drainage

Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

This goes on to state, within Paragraph 172, that all plans "should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

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

Paragraph 174 goes on to state that, "Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the strategic flood risk assessment being the tool to demonstrate this.

Paragraph 175 details that "The sequential test should be used in areas known to be at risk now or in the future from any form of flooding, except in situations where a site-specific flood risk assessment demonstrates that no built development within the site boundary, including access or escape routes, land raising or other potentially vulnerable elements, would be located on an area that would be at risk of flooding from any source, now and in the future (having regard to potential changes in flood risk)".

If, following the application of the Sequential Test, it is not possible, consistent with wider sustainability objectives, for the development to be located in Zones with a lower probability of flooding, the Exceptions Test can be applied if appropriate.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

The site lies within Flood Zone 3 of the Environment Agency's Flood Maps. The latter 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. However, the maps are broad brush and do not take into account any flood defences. It is therefore necessary to use the refined flood risk information (Hazard and Depth Maps) within the South Holland Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

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.

The proposed development is for four two storey dwellings within a Flood Zone 3 site, it is considered that the site is not at risk of tidal flooding but is at risk from fluvial. It is protected by adequate fluvial flood defences with a residual risk to the breaching of these defences existing. It is considered that the scheme provides a level of 'flooding betterment' by providing one less unit a change of use could result in, therefore it is considered this scheme passes the sequential and exception test. The Flood Risk Assessment concludes that as there is no flood depths on site for the design scenario the floors will be set at 150mm above existing ground levels, however, constructing using flood resilient construction to 300mm above finished floor level would be prudent. The mitigation measures proposed here are considered to be suitable and acceptable in this instance and should ensure safety of residents within the new plots.

New foul and surface water drains will be designed to the relevant standards with Welland & Deepings IDB raising no objections to the scheme stating 'If at any point in the future either a surface or foul water discharge into any watercourse is proposed then the prior written consent of the Board will be required. Any application made for consent will be subject to the agreement of technical details, payment of the application fee as well as payment of any necessary development contribution'.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.

Highway Safety and Parking

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

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

Further, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms.

Lincolnshire County Council Highways were consulted on this application and raised no objections stating 'There are no connecting footways to the site and the residents of the site will be wholly reliant upon the car to access facilities however, there is an existing dwelling adjacent and more dwellings along Mill Green Road. The access to the site will be constructed to Lincolnshire County Council Specification and affords good visibility where the speed limit is 30mph. Each dwelling has a double garage of adequate size to park two cars and a parking space which is acceptable. The vehicle movements associated with the proposal will be a reduction to those that could be produced with the existing use. 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 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

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

Correspondence has been carried out between the agent's ecologist and the South East Lincolnshire Council Partnership's Senior Ecologist, the final email stated the following points:

1. Based on the photos provided and assuming we receive similar photos of the ruderal habitat as requested above, I do not think that we will need a condition requiring an updated habitat survey to be undertaken between April-October to confirm the condition of the on-site grassland and ruderal habitats. The photos and details provided in the response are sufficient.

2. I do recommend that we include a condition requesting that a Habitat Management and Monitoring Plan (HMMP) is submitted along with the required biodiversity gain plan pre-commencement. The HMMP should contain: a) Description and evaluation of features to be managed; b) Ecological trends and constraints on site that might influence management; c) Aims and objectives of management; d) Appropriate management options for achieving aims and objectives; e) Prescriptions for management actions; f) Preparation of a work schedule (including annual work plan capable of rolling forward over a five-year period); g) Details of the body or organisation responsible for implantation of the plan; h) Ongoing monitoring and remedial measures; j) Locations and numbers of any additional ecological enhancements e.g. bat and bird boxes; k) Details of the legal and funding mechanism(s) by which long-term implementation of the

plan will be secured by the developer with the management body(ies) responsible for its delivery.

3. I also recommend conditioning a boundary treatment wherein some low-level fencing or native hedging clearly differentiates the BNG habitat provision area from the adjacent garden of plot 4 for the new resident.

4. The difference of opinion about the approach required to meet our legal obligations to protected species boils down to assessing the risk/likelihood of bats roosting in the building to be demolished. While I agree that the "negligible" roost potential classification based on the physical characteristics of the building has merit, this classification must also take into account the ecological context of the site including known bat presence. If we don't also account for bat presence in this assessment, then we negate the merit of conducting a desk-based environmental records search in addition to the on-site survey. In this regard, I think the PEA's summary of the bat records within 2 km of the site (found in section 5.1.2, page 12 of the PEA) undersells bat presence in the area:

"5.1.2. A number of records of bats from within 2km of the site were returned from the records centre, the closest record being a general bat species located 100m to the southwest of the site, recorded in 2013.

5.1.3. Other records of bats include but are not limited to Daubenton's Bat Myotis daubentonii, Common Pipistrelle Pipistrellus pipistrellus, Brown Long-eared Bat Plecotus auratus, Soprano Pipistrelle Pipistrellus pygmaeus, Western Barbastelle Barbastella barbastellus, Nathusius's Pipistrelle Pipistrellus nathusii, Natterer's Bat Myotis nattereri and Noctule Bat Nyctalus noctule, dating between 1945 and 2022"

My own search of GLNP's LERC database produced over 430 records of bats observed within 2km of the site between 2000 and 2024, including observations of large roosts within close proximity to the site as recently as 2020. Thus, consideration of the high degree of bat presence is not explicitly considered in the PEA, nor do I believe is adequately integrated into the roost suitability assessment of the barn.

Therefore, I believe that we need to adopt further measures than recommended in the PEA to meet our protected species obligations in this instance. If we take the position of the applicant's and conclude that no further surveys are required prior to demolition work then my opinion is that at a minimum we should condition: i) that bat roost boxes are erected as appropriate on-site at least a month prior to demolition works, 2) an ecological watch is placed on the barn during demolition and if bats are found, then demolition halted until a suitable bat mitigation strategy is developed and mitigation license applied for.

When taking the above into account, the development in this instance accords to the statutory 10% Biodiversity Net Gain requirements. As such, the requirements as mandatorily required would apply to any subsequent approval.

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.

Notwithstanding the conflict with policy 1 of the South east Lincolnshire Local Plan (2019), the proposal represents appropriate development outside the defined settlement boundary; when viewed on balance and when taking account of the aforementioned fallback position.

The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework when viewed as a whole.

In this instance, 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 be in accordance with Policies 2, 3, 4, 10, 11, 28, 30 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (SELLP) (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024).

Recommendation

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