

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0265-24 **Applicant:** Mrs K Cusack

Proposal: Removal of existing flat roofed building including new redefined rear boundary and erection of 3 houses with associated car parking

Location: Rear Of 76 Commercial Road Spalding Lincolnshire

Terminal Date: 25th October 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
29	The Historic 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 2023

Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenges of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1

HIGHWAYS & SUDS SUPPORT	0	0	0	1
RUBEN LOPEZ, HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks permission for the removal of an existing flat roofed building, including new redefined rear boundary, and erection of 3 dwellings over garages with associated car parking. The residential element of the dwellings are at first floor level, with garages beneath. The first floor cantilevers over the ground floor garages by approximately 1 metre.

The dimensions are: 13.5m long, 9m wide, a flat roof with a slight slope ranging from 5.28m high to 5.1m high.

The internal gross floor areas of each dwelling is 33.39 square metres.

The ground floor garage size is 5.15m x 4.153m.

Timber cladding is proposed at first floor level, with 6 narrow but tall windows front and back, symmetrical at the rear, and offset at the front, with one smaller window on each flank.

The proposed existing entrance is to be increased in width, off Barge Close.

Materials would be dark smooth render and vertical timber (real or fake) in appearance. Roof would be dark grey fibreglass. Windows - grey UPVC or Aluminium. Rainwater goods - Black UPVC. Proposed fencing would be 2.4m high. Footpath areas - concrete paving. The landscaping comprises one red maple tree - heavy standard.

Existing 2.4m high wall retained. The site shows four car parking spaces for number 76, replacing and existing garage on site.

Site Description

76 Commercial Road is a terraced residential property, along a predominantly residential street within the centre of Spalding interspersed with some mixed uses.

The application site is the rear garden of 76 Commercial Road. Residential exists to the rear of the site. The site at the rear appears to be a reasonably large residential garden. The site has a rear access off Barge Close. Adjoining the access are three flats over garages immediately south of the application site.

The structure in the rear is single storey and has wide garage doors.

History

H16-1147-94 - Demolish 76/77 Commercial Road and outbuilding for proposed development. Refused 22 December 1994 - determination that prior approval of details is required.

H16-0313-05 - Barge Close, rear 76 Commercial Road, Spalding PE11 2YT - Erect one two storey building comprising four one bed self contained flats. Refused 4 March 2005. Appeal dismissed 16 January 2006.

H16-0998-05 - Plot rear of 76 Commercial Road, Barge Close, Spalding - Residential development - erect detached two bedroom house and garage. Approved 19 September 2005.

H16-1650-07 - Conversion of dwelling into 2 flats and 6 new affordable dwellings. Refused on 17 December 2007.

H16-0975-08 - Reserved Matters - Proposed two-bed detached house and detached single garage (Outline H16-0998-05).

Consultation Responses

Internal Drainage Board

Consent may be required under Byelaw 3 (discharge of water to a watercourse (treated foul or surface water)).

No drainage strategy provided for site. The IDB is unlikely to grant consent for discharges in excess of greenfield water rate. A surface water development contribution is likely to be payable as a condition.

SHDC Environmental Protection

Request standard land contamination condition.

Lead Local Flood and Highway Authority

Response dated 15 May

1 parking spaces is detailed for each dwelling, where does 76A park? Where would visitors park? A swept path drawing is required showing how all calling vehicles will turn within the site should all parking spaces be in use.

There are existing garages fronting the access, the block plan needs to show cars parking in front of the garages to ensure access is achievable to the site, detailing the widths available.

Response dated 12 June

No objections.

The site is accessed from Barge Close and the southern end of Barge Close is private. We have no jurisdiction over the use of this part of Barge Close, only the impact it could have on the adopted Barge Close and its junction with Commercial Road. 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.

Informative suggested.

LCC Historic Environment Officer

The wide area has archaeological potential; however, the negative report on the adjacent site at Barge Close means archaeological impact on this site is unlikely. Proposal is unlikely to have an impact on significant archaeological remains. No further archaeological input is necessary for this application.

Environment Agency

Response dated 15 May 2024

Objection.

The maps found in Appendix B of the South East Lincolnshire Strategic Flood Risk Assessment (SFRA) show the site could experience flood depths of 1-2 metres arising from a breach in the defences during a flood that has a 1% chance of occurring in any one year up to 2115.

The flood risk advice matrix found in Appendix C of your SFRA outlines the required flood risk mitigation based on the flood depth bands of 1-1.6m and 1.6m+.

Based on the flood level identified in the submitted FRA dated 15 March 2024, prepared by Oakshire Environmental, the FRA fails to propose adequate flood risk mitigation measures in line with the flood risk advice matrix to address flood risk for the lifetime of the development.

The flood risk advice matrix states that for development at risk of flood depths exceeding 1.6 metres that proposals should have a minimum of 2 storeys with no ground floor accommodation. The first floor living accommodation must be above the highest predicted flood depth.

A revised FRA is required plus revised plans.

Response dated 28 June

Withdraw previous objection due to amended plans.

Conditions suggested that finished floor level should be set no lower than 5.60m above Ordnance Datum, that ground floor of properties shall be used as garages only and that permitted development rights are restricted.

Public

One letter received raising concerns about difficulties with residents in Commercial Road, and requested further information.

Planning Considerations

Evaluation

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

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 (December 2023) 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, the latest supply being 6.4 years as at 31 March 2024.

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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan indicates that within the settlement boundary of Spalding, a Sub-Regional Centre, development will be permitted that supports their roles as Sub-Regional Centres.

The National Planning Policy Framework, (NPPF) (December 2023) outlines, within para 60, 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 and that land with permission is developed without unnecessary delay".

Para 70 of the NPPF (December 2023) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area 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.

Since the location of the application site is within the settlement of Spalding, a Sub-Regional Centre, there is no objection in principle to residential development, as Spalding comprises the most sustainable location within this district.

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

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

Section 12 of the National Planning Policy Framework (December 2023) specifically relates to 'Achieving well-designed and beautiful 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 2023), states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

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 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, 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 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 proposals represent the introduction of three dwellings over garages in the rear garden of 76 Commercial Road. The dwellings themselves are below the minimum internal floor area of the smallest Nationally Described Minimum Space Standards, at 33 square metres, with the smallest one bedroom one person dwelling for the latter standards should be 37 square metres, with a shower instead of a bath. The dwellings would be very small, set within the amenity space of number 76. No amenity space would be available as the entire rear amenity space, would be taken up by hard surfacing to facilitate parking for number 76/76A and parking and manouvering space for the garages beneath the flats.

The three dwellings would effectively be "crammed" into the rear garden, removing amenity space for both the existing residents at 76 Commercial Road, and for the future occupiers of the 3 small dwellings. The layout would face neighbouring properties and would be set in from the boundary to the east by 7.75 metres. This would mean windows would look directly onto the neighbouring garden which has a garden structure and windows facing the application site.

Paragraph 128 of the National Planning Policy Framework, December 2023, relates to achieving appropriate densities. The caveat to making efficient use of land is dependent upon, "d) the desirability of maintaining an area's prevailing character and setting (including residential gardens) and "e) the importance of securing well-designed and beautiful, attractive and healthy places."

Planning decisions, as per paragraph 135 of the National Planning Policy Framework, December 2019 should ensure that developments will "a) function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development" and "b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping" and "c) are sympathetic to local character and history, including the surrounding built environment and landscape setting,". The paragraph goes on to state that developments should "f) 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.

Footnote 52 of the NPPF refers to the use of the nationally described space standard, where the need for an internal space standard can be justified.

Paragraph 5.13.9 of the South East Lincolnshire Local Plan, 2019 stresses that they should provide satisfactory standards of living accommodation and amenity. This means that the property should be of an adequate size for the proposed use and the layout, range of facilities and external amenity space should ensure an adequate standard of residential amenity for future occupiers. One step in achieving an adequate standard of accommodation is to ensure that there is adequate living space which complies with Nationally Described Space standards set out in national policy. The proposal does not comply with these standards and as such the resulting accommodation is considered to be substandard and would adversely affect amenity.

The overall appearance of the dwellings would represent a cramped form of development, resulting in visual intrusion into the townscape and would be incongruous. Whilst it is appreciated this is a sustainable location, this is 'backland' infilling development that represents poor design, making the living conditions of both existing neighbouring occupiers and future residential occupiers poorer, and not promoting health and well-being. In layout terms the proposal is considered harmful to the character of the area. Internal space standards for future occupiers are insufficient.

The flat roof design is out of keeping with the character of the area, which although is varied, all residential properties have pitched, tiled roofs. It is considered that the design is out of keeping and

would result in visual intrusion.

It is appreciated that one dwelling was granted planning permission in the past in 2005, with reserved matters approved 3 years later in 2008. However, there is no evidence that this permission was started and instead a rear garage exists in the rear garden, which is in keeping with the scale of the garden size. It is noted that this permission predates both the NPPF and the current development plan, so whilst it is accepted that residential development of a smaller scale was permitted in the past, the policy circumstances and the increased emphasis on planning for beauty, with design policies that are contained within an up to date plan, are such that there is now a material difference in policy terms.

In any case, the current proposal vastly increases both the number of dwellings, and the scale of development. The flood risk situation at this site also necessitates no habitable rooms being possible on the ground floor which means the situation has moved on significantly in flood risk terms since the approval. The fact that the location of the dwellings necessitates first floor accommodation increases the height and bulk of the structure. The flat roof is an alien feature to the design of residential properties in the vicinity and is a further attempt to keep the bulk down.

Fundamentally, the development represents overdevelopment in a backland location which is considered to adversely affect the character and appearance of the area. The proposal, by reason of its size, bulk, height, and design, represents a cramped form of development, adversely affecting the character of the area and nearby residential dwellings by creating visual intrusion, overdevelopment and removing the opportunity of usable amenity space for existing and future residents. The resulting dwellings would be excessively small units within a cramped space with awkward car parking arrangements.

The proposal is considered to be contrary to Policy 2 of the South East Lincolnshire Local Plan, 2019 which seeks to ensure that proposals are in keeping with the area in terms of size, scale, layout and design and to ensure that they do not impact amenity, character/appearance and is an appropriate relationship with adjoining properties. Design quality is stressed together with ensuring proposals do not result in visual intrusion.

The proposal is also considered to be contrary to Policy 3 of the South East Lincolnshire Local Plan, 2019 which seeks to ensure that proposals create distinctive places through the use of high quality and inclusive design and layout, making use of local traditional styles and materials. It states 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. It stresses the need to create a sense of place by respecting scale, visual closure, views, massing of neighbouring buildings and the surrounding area, residential amenity, and the provision of appropriate new landscaping to enhance biodiversity and green infrastructure.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to cause an adverse impact to the character and appearance of the area and would therefore be contrary to policies 2 and 3 of the South East Lincolnshire Local Plan and Section 12 of the National Planning Policy Framework (December 2023).

Impact on Residential Amenity/Land Users

Paragraph 135 of the National Planning Policy Framework (December 2023) 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.

As stated above, the size, height, bulk of the proposals represent overdevelopment of the site. The development will result in visual intrusion and loss of outlook to nearby residential occupiers, adversely affecting the amenities of neighbouring properties. The proposal is out of character and out of keeping with the locality. The structure would dominate the rear amenity area and would remove the existing landscaping replacing it with hard surfacing. This in no way benefits nearby residential occupiers and will increase comings and goings of residents in the area, as a result of

inserting 3 dwellings of a significant height, into a back garden. This is considered to be harmful to residential amenity.

As detailed above, the scale and design of the proposal is considered to be such that there would be significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to be harmful and contrary to the provisions of the Section 12 of the National Planning Policy Framework (December 2023), and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2023) specifically relates to 'Promoting sustainable transport'. Paragraph 115 of the National Planning Policy Framework (December 2023) 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 would be severe".

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, 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 Local Highway Authority initially sought further information about parking and noted that Barge Close is a private road. Following amendments they confirmed that they do not object to the proposals as the scheme does not affect the public highway.

The proposal shows 3 flats with garages underneath. The internal dimensions of the garages are 5.15m x 4.153m. To count as one space for a garage, Appendix 6 of the SELLP requires an internal dimension of 2.6m x 5.6m. The internal dimensions do not conform with the length dimensions in the policy. Even if it was accepted that the garages represents one space, two car parking spaces are required for each dwelling. Four spaces are available within the site outside of the garages. If three of the four spaces are available for the three dwellings this leaves only one space for the existing occupants at 76 commercial road. This appears to be contrary to policy. Given that the Local Highway Authority does not object to the proposals, it is considered that refusal due to lack of car parking would not be sustained at appeal.

Whilst the proposal would result in inadequate, awkward and cramped parking, the proposal would not have an unacceptable adverse impact on highway safety in accordance with Local Plan Policy 36, and Section 9 of the National Planning Policy Framework (December 2023) on balance, but the existence of the parking takes away any amenity space and therefore adds to the inadequate design adversely affecting the character of the area.

Flooding Considerations

Section 14 of the National Planning policy Framework (December 2023) requires development plans to "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 168 details "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 sequential approach being required in areas known to be at risk now or in the future from any form of flooding, with the flood risk assessment being the tool to demonstrate this.

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

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan 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.

Ground levels range from 4.2m AOD at the north west boundary to 3.8m AOD at the south east boundary.

The use is categorised as 'more vulnerable'. These uses are permitted subject to an Exception Test. Habitable accommodation should be no lower than 5.6m AOD to provide a freeboard above the maximum flood level in the event of a breach of flood defences. Flood resilience measures should be incorporated. SuDs will be used.

In the event of a breach or overtopping of flood defences there would be a significant hazard at the site and along Barge Close including flood depths between 1m and 2m, therefore, safe access and egress will not be possible during a breach event. Given that the proposal has removed habitable accommodation from the ground floor it is considered that the proposal does not conflict with Policy 4 of the SELLP.

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

Impacts of Climate Change

In respect of the climate emergency, section 14 of the National Planning Policy Framework (December 2023) states that new development should be planned for in ways that: 'avoid increased vulnerability to the range of impacts arising from climate change' with care taken to manage and adapt where development is brought forward in areas which are vulnerable; and that 'can help to reduce greenhouse gas emissions, such as through its location, orientation and design'.

The removal of the grassed area which currently acts as rear amenity area would be replaced by paving. Whilst it is understood that SuDs would be used, this still reduces the amount of green space within this location. This adds to the design issues with the scheme. Policy 31 states that all proposals will be required to demonstrate that the consequences of current climate change has been addressed, minimised and mitigated by, amongst other things, incorporating measures which promote and enhance green infrastructure and provide an overall net gain in biodiversity as required by Policy 28 to improve the resilience of ecosystems within and beyond the site. Policy 28 seeks to ensure that Policy 28 seeks a high quality, comprehensive ecological network of interconnected wildlife friendly greenspace, by ensuring all development proposals provide an overall net gain in biodiversity by protecting the biodiversity value of land, minimising the fragmentation of habitats, incorporating beneficially biodiversity conservation features on buildings, green infrastructure and ecological corridors.

The proposals worsens the current situation by removing all green space apart from one Acer Tree, which is not native to the UK. The use of widespread paving worsens the biodiversity of the existing site and increases the impermeable area, removing the amenity area. This is considered detrimental to both climate change and biodiversity and as such is contrary to policies 28 and 31 of the SELLP. The proposals also fail to incorporate

Taking the above into account it is considered that given the details submitted, the proposal is not acceptable in this regard. The proposal would therefore be contrary with Policy 31 and 28 of the South East Lincolnshire Local Plan and Section 14 of the National Planning Policy Framework (December 2023).

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 proposals are in a sustainable location which represents appropriate development within the defined settlement boundary. This weighs in favour of the proposal as well as the economic benefits from constructing the dwellings and spends from future occupiers. However, the development materially harms the character or appearance of the locality, the amenity of nearby residents, and provides parking that takes away amenity space and represents overdevelopment, out of keeping and out of character with the area. The proposals do not offer any biodiversity net gain, and cannot achieve mandatory 10% uplift requirements. Policy 28 is up to date and requires biodiversity net gain. Offering no amenity space or landscaping of any meaningful size is considered insufficient given policies 28 and 31. These matters weigh against the proposal in the planning balance. The proposals do not conform with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework or Biodiversity Legislation when viewed as a whole.

In this instance, there are material considerations that weigh against the proposal and as such, the planning balance is in favour of refusal in this instance.

Conclusion

The proposal is contrary to policy and should be refused.

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.