

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-1057-24 **Applicant:** Mr D Needham
Proposal: Erection of 1 Bed 1.5 storey dwelling
Location: Rear Of 8 Sandringham Walk Spalding Lincolnshire
Terminal Date: 11th February 2025

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
31	Climate Change and Renewable and Low Carbon Energy
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance**National Planning Policy Framework December 2024**

Section 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
WARD MEMBER	0	1	0	0
PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS	0	0	0	1

SUPPORT				
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This application seeks full planning permission for the erection of a single bedroom, 1.5 storey dwelling to the rear of 8 Sandringham Walk. Access would be via Churchill Drive, and the principal elevation would also face onto this road. The dwelling would be a self-build, as defined within the Self and Custom House Building Act, 2015.

The dwelling would measure 7.5 metres (depth) by 11.3 metres (width). The dwelling's height to the eaves would measure 3.52 metres, rising to 6.919 metres at the apex of its dual pitch roof. Three dormer windows are proposed, facing southwards to Churchill Drive.

Internally, all habitable rooms would be located on the first floor, whilst the ground floor would be used for a utility room, entrance hall and garage. The first floor would feature a single bedroom, a kitchen/ living room and a bathroom. The floor space would be approximately 53sqm on the first floor (only including space with a floor to ceiling height of greater than 1.5m) and 66sqm on the ground. Approximately 40sqm of the first floor space has a floor to ceiling height of 2 metres or more.

It is proposed that the dwelling would be constructed of buff brickwork, with white render to the dormers. Dark grey/ black concrete roof tiles are proposed. UPVC doors and windows are proposed. No specific details of any of these materials have been proposed.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. 8 Sandringham Walk is a fairly typical, red brick bungalow located along a bend in the road. Consistent with the wider area, the dwelling benefits from a reasonably large garden.

That being said, as the access and principal features of the proposal would be located along Churchill Drive, considerations must also be made regarding the existing character of this street also. Churchill Drive features a fairly eclectic mix of properties, although there is a clear preference for medium sized, two-storey dwellinghouses. The site is located towards the end of the road, adjacent to a roundabout, at the end of the cul-de-sac.

Currently, the site is a well vegetated break in development along the road. It is situated at a clearly defined end in the residential dwellings, and as such, cannot be considered infill in the traditional sense.

Relevant History

H16-1221-87 - Outline. Residential development of pt garden to provide' bungalow/garage & veh.

access to Churchill Drive'. Refused 09/12/87.

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:

Cllr Asby

Support - "I just wonder about parking for visitors?"

South Holland Internal Drainage Board

Outline the circumstances where Land Drainage Consent may be required to be sought from the Board.

Highway and Lead Local Flood Authority

"This proposal is for the erection of 1 Bed 1.5 storey dwelling that will require the formation of a new vehicular access from Churchill Drive and meets the guidelines set out in Manual for Streets and SELLP for visibility and parking provision. Therefore, the proposal does not have an impact on the Public Highway or Surface Water Flood Risk."

Proceeds to recommend the placement of two informative conditions on any potential decision to approve the application.

Historic Environment Officer

"Thank you for consulting us on this. Having reviewed the application documents and the updated available Historic Environment information for this application, the proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application. It is not necessary to consult us on this application again, unless there are material changes to the proposals. However, if you would like advice from us, please contact us to explain your request".

Environment Agency

"The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning conditions are included:

-The development shall be carried out in accordance with the submitted flood risk assessment dated November 2024, ref: 'ECL1395/TMV ARCHITECTS', prepared by Ellingham Consulting Ltd and the following mitigation measures it details:

The finished floor level of the first floor shall be set no lower than 2.2 metres above existing ground level, equivalent to 5.1 metres above Ordnance Datum

These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.

-The ground floor of the property hereby approved shall be used as garage, utility and entrance hall only and as annotated on approved drawing ref: '1140-005 Rev B Proposed Ground Floor Plan' and for no other habitable accommodation.

-Notwithstanding the provision of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking and re-enacting that Order with or without modification), no extensions to provide additional habitable/living accommodation shall be erected (other than those expressly authorised by this permission)."

The Agency go on to outline that irrespective of the above advice, the application of the Sequential and Exception Tests shall be conducted by the Local Planning Authority, in accordance with the provisions of the National Planning Policy Framework, 2024.

Environmental Protection

"No comments regarding land contamination or environmental protection."

Key Planning Considerations

Evaluation

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

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

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

South Holland's five-year Housing Land Supply Assessment (5YHLSA), as of 31st March 2024, shows a 6.4 year housing land supply in the District. Since the publication of this document, a revised NPPF and standard method have been published, the result of which has been any increase in housing requirement in the District. That being said, even following this review, housing land supply has not fallen below the five year threshold.

Principle of Development

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is within the settlement of Spalding which is classed as sub-regional centre within Policy 1. As such development will be permitted that supports Spalding's role as a service centre, helps sustain existing facilities or helps meet the service needs of other local communities.

Policies 10 and 11 further support Policy 1 by outlining the housing need for each settlement throughout the lifetime of the SELLP. Policy 11 identifies 5510 dwellings would be required in Spalding.

Policy 17, "providing a mix of housing", seeks to meet the long term needs of the Plan area with regards to various dwelling types. The policy highlights that "family homes of two or three bedrooms are in highest demand", and that "one bedroom homes are also required to meet affordable needs". As a one bedroom home, the proposal achieves the aims of this policy to a certain extent; however, is proposed as a market dwelling and does not seek permission for an 'affordable property'.

Policies 10, 11 and 17 also, in part, concern the provision of land for self and custom build dwellings. Paragraph 5.3.5, contained within the reasoned justification of Policy 10 states: "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, selfbuilder, 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".

Policy 17 briefly expands upon this, stating that "the Local Plan will also seek to meet the housing needs of custom and self builders as they may come forward." In this vein, while weight is given in favour of proposals for self and custom builds, these proposals must be consistent with the provisions of the SELLP as a whole and cannot be used as justification for divergence from policy. The weight given in favour of proposals for self build dwellings is tempered accordingly.

The NPPF 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. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community."

Paragraph 73 of the NPPF 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 paragraph 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.

As the site is within Spalding, development within this location is considered appropriate. The proposal would support the settlement's role as a sub-regional centre and make a positive contribution to local housing stocks. The proposal would help to meet the need for self and custom build housing in a method consistent with the broad spatial strategy of the SELLP.

Therefore, when viewed as a board principle, the proposal is considered to be in accordance with Policy 1, 10, 11, and 17 of the SELLP, as well as Paragraphs 61 and 73 of the NPPF. The principle of development on this site is considered acceptable subject to other material considerations being met.

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

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

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

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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.

Sandringham Walk features a fairly eclectic mix of dwellings, with the host property for this application itself being a bungalow. To a certain extent this variation would help to naturalise this proposal; however, as the proposal would front Churchill Drive, the proposal would be tangibly more linked to this context, than it would along Sandringham Walk, to which it would appear a backland development; albeit, the proposal would not necessarily represent backland development in its traditional sense, as it does associate with a road frontage.

Churchill Drive by comparison has a far greater preference for two-storey dwellings, although there

is no consistent design present. As with Sandringham Walk, all dwellings along Churchill Drive are frontage development, with a relatively consistent build line and frontage layout, with the properties forming a consistent linear layout, followed by a consistent form through the cul-de-sac.

The proposal, which itself forms a one and a half storey dwelling comprising a single bedroom and as such, comprises a form that is not consistent with those within its surrounding context being of a smaller scale, would represent a divergence from these established qualities, with the dwelling be located off of the prevailing building line, due primarily to its positioning on a slant.

The impacts of this break are further exacerbated by its relationship with 43 Churchill Drive, which currently acts as a clear break in the built form of the area. Beyond this, the resultant development would cause a loss of garden space to no.8 Sandringham Walk, which itself currently comprises a sizeable rear garden that is consistent with its immediate neighbouring plots to the east, a feature that helps provide the break in built form beyond 43 Churchill drive. As such, the proposal would represent a degree of harm to the character of the area, whilst also being further exacerbated by the resultant change in character of these rear garden forms. Furthermore, as a 1.5 storey dwelling, the proposal would conflict with the dominant built form of the area, aggravating this impact further.

Paragraph 53 and 56 of the National Design Guide outline the need for proposal to relate well to their setting and to draw upon the existing character of the area. Paragraph 56 states: "well-designed places contribute to local distinctiveness. This may include: adopting typical building forms, composition, articulation, proportions, features, materials, details, patterns and colours of an area; drawing upon the architectural precedents that are prevalent in the local area, including the proportions of buildings and their openings". As discussed above, the proposal would represent a divergence from the built form of the area, and therefore can be considered contrary to these paragraphs.

Paragraph 139 of the NPPF states "Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes". As outlined above, the proposal is contrary to the provisions of the National Design Guide and represents an atypical design which is at odds with the character of the area, and appears as an incongruous addition to an otherwise regimented built form. Therefore, significant weight is given against the proposal in line with Paragraph 139.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would cause an adverse impact to the character or appearance of the area and would therefore be contrary to Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

Policies 2 and 3 of SELLP sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

The positioning of the first-floor windows ensures no overlooking would occur. Any views from rear windows would be obscured by boundary treatments.

Turning to overshadowing, the size of the garden would prevent significant overshadowing to the neighbour to the north. To the west and east some overshadowing would occur to both properties. To the west, the tangible impacts of this are significantly reduced as any shadow would fall onto a blank elevation. The level of overshadowing to the east would be reduced by the existing large boundary treatments and the relatively low height of the dwelling. As such, the actual degree of overshadowing would be reduced.

All living accommodation would be located on the first floor. Due to the reduced height of the chalet bungalow, significant portions of the dwelling would suffer from a reduced floor to ceiling height. That being said, approximately 40sqm of the floor would have a clearance of over 2 metres, and approximately 33sqm of this would have a clearance of 2.3 metres. This results in slightly over 75% of the living accommodation having a floor to ceiling height of greater than 2.3 metres, therefore

conforming to the requirements of the Nationally Described Space Standards (NDSS).

It should also be noted that the wording of the NDSS refers to the dwelling as a whole, inclusive of non-habitable rooms. As a result, the floor space of the ground floor must be taken into account in the calculations, thus further ensuring the proposal conforms to space standards.

Therefore, while the sloping roof, coupled with the relatively low ceiling height may result in more claustrophobic conditions, the actual level of space provided is suitable and in accordance with the relevant guidance documents.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

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

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

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least two spaces for dwellings of up to three bedrooms and three spaces for dwellings with four or more bedrooms. This has been achieved on the site. The number of spaces should be sufficient to accommodate guest parking, and if necessary additional on road parking could be obtained.

The access to the site is at the end of a quiet cul-de-sac. As such, the tangible impacts upon the highway network are considered to be low. The response from the Highway Authority has further highlighted this.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 9 of the NPPF.

Flooding Considerations

Section 14 of the NPPF 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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "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". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states 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)."

Policy 4 states that the "sequential test will be based on a Borough or District wide search area of alternative sites within the defined settlement boundaries, unless local circumstances relating to the catchment area for the development justify a reduced search area".

Paragraph 176 of the NPPF states that "some" minor development should not be subject to the sequential test. Footnote 62 clarifies this point briefly, outlining minor developments include "householder development, small non-residential extensions (with a footprint of less than 250m²) and changes of use". As the updated NPPF (December 2024) is the most recent document, and therefore can be seen to be more responsive to updated data and guidance, the provisions of the NPPF are given greater weight in this regard, in this instance. To this end, it is considered appropriate to apply the sequential test in this context.

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 process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall".

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

The South-East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan, including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the SELLP 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 SFRA as a basis to apply the sequential test.

Within the SFRA, the site is classed as danger for all, with a hazard depth of over two metres. The standing advice provided by the Environment Agency for this flood risk classification is that no habitable rooms shall be present on the ground floor.

While the vast majority of the settlement is within Flood Zone 3, there are areas of the District outside of Flood Zone 3; furthermore, significant portions of Spalding, as the settlement subject to this application, lie outside of the hazard areas identified within the SFRA (danger for all, with a hazard depth of over two metres). To this end, suitable land could reasonably be available within the settlement to accommodate the addition of a single dwelling, as proposed.

There are no significant circumstances which would justify a reduced search area or provide justification as to why there is an essential need for a dwelling on this specific site, with the submitted Flood Risk Assessment failing to provide a District wide search of alternative sites, within the defined settlement boundaries, that are located in more appropriate flooding environments, nor does it demonstrate that there are no other sites that exist at a lower risk of flooding within the district that would accommodate the development hereby proposed.

As such, it is not considered that the proposal has passed the Sequential Test, as there are reasonably available sites at lower flood risk.

For clarity, as discussed in Paragraph 25 of the Planning Policy Guidance, sites do not need to be owned by the applicant to be considered 'reasonably available'.

For the sake of completeness, turning to the exemptions test; the proposal would be safe for its

lifetime due to the positioning of all habitable rooms on the first floor. The conditions requested by the Environment Agency would ensure this safety.

That being said, the wider sustainability benefits to the community would not necessarily outweigh the flood risk. Paragraph 178 clearly states the development should deliver "wider sustainability benefits to the community", and to this end, any benefits must conform to the considerations surrounding sustainability outlined in Paragraph 8 of the NPPF, and these gains must be tangibly felt within residents in the wider area.

The creation of single self build dwelling would have limited benefits for the community, as the benefits arising from it would be primarily felt by the occupant. As outlined above, the proposal would create no benefits from an aesthetic or character perspective. The development provides limited environmental benefits, and what benefits are gained are not clearly cascaded to the wider area. Economically, while there would be some minor temporary gains during the construction process, these are not sufficient or long lasting enough to provide a significant sustainable benefit to the community. Any benefits attributed to the wider sustainability could be achieved through the development of a more suitable site in flood risk terms.

As stated above, with regards to self-build housing the SELLP outlines that the proposals should be in accordance with the development plan as a whole. As a result, the weight given to the proposal due to its self build nature is not sufficient as to be considered to have met the exceptions test.

The proposal is considered to fail the sequential test, as reasonably available sites exist within Spalding for a development of this nature. There are no extenuating circumstances which necessitate development to occur on this site. In any event, while the development itself can be made safe for its lifetime via significant modification, the benefits arising from the development would not be felt within the community, and therefore, the proposal fails the exceptions test also.

The development is therefore considered to be at conflict with Policy 4 of the South East Lincolnshire Local Plan (2019) and Section 14 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.

As a self build property, the proposal is considered exempt from the mandatory Biodiversity Net Gain condition. Therefore, should an approval be issued, no condition requiring net gain would be imposed.

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 proposed development would represent a departure from the established built form of the area. The proposal would appear entirely incongruous within its setting, and as a result would be harmful to the established character and appearance of the area. Therefore, in line with Paragraph 139 of the NPPF and Policies 2 and 3 of the SELLP, the development should be refused on design terms.

The proposal is considered to fail the Sequential Test. No evidence has been provided to necessitate development on this site over others which are reasonably available within Spalding at a lower risk of flooding. In any event, while the adaptation to the flood risk on the site may preserve resident's safety, the development fails to deliver adequate benefits to the community in order to pass the Exceptions Test. The proposal is therefore contrary to the provisions of Section 14 of the NPPF.

The provisions of the SELLP reinforce that the proposals for self build housing should be in accordance with the Development Plan as a whole. While weight is given in favour of the proposal as it would help to meet the self build housing needs of the area, this weight is not sufficient enough as to warrant a divergence from policy.

The proposal would provide a benefit, in the form of a single residential dwelling. However, given that the LPA are able to demonstrate a housing land supply in excess of 5 years, this is considered to be a minor benefit which does not outweigh the clear harm and policy conflicts identified.

Therefore, the planning balance is against the proposal.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to

respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Taking these factors into consideration, the proposal is considered to conflict with Policies 2, 3, and 4 of the SELLP, as well as Sections 12 and 14 of the NPPF. As such, the planning balance is against the proposal.

Recommendation

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