

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-1191-25 **Applicant:** Tulip-Fields Homes Ltd

Proposal: Demolition of redundant commercial buildings and the erection of 4 dwellings

Location: 39-41 Albert Street Spalding

Terminal Date: 10th April 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
28	The Natural Environment
30	Pollution
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 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
WARD MEMBER	0	0	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	2	0
OTHER STATUTORY BODIES	1	0	0	3
RESIDENTS	4	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

This is a Full planning application, seeking permission for the demolition of an existing commercial building and the erection of four, three-storey dwellings to take their place. The dwellings would be arranged as two semi-detached pairs.

Each pair would have a total width of 11.027m, split evenly between the two dwellings, with a depth of 8.27m. To the eaves, the height would be approximately 6.25m, rising to 9.75m at the ridge. Each dwelling would have an approximate floor area of 116sqm.

Materials would be consistent throughout the site. This would constitute Vandersanden Cottage Mix facing bricks, with grey slate effect concrete roof tiles. Cream UPVC doors, windows, fascias and soffits are proposed.

Amendments reducing the number of plots from 5 to 4 were received.

Site Description

The site is within the settlement boundary of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. The site is located to the east of the settlement, between the Coronation Channel and the River Welland. The area is primarily residential in nature, bar this existing commercial unit. The site is approximately 750 metres north-east of the defined town centre.

The existing unit is anomalous in the area. It is a white rendered building, functional in appearance. It is divided into an original two-storey component (formerly occupied by an antiques dealer), with two, single-storey extensions flanking it (both of which have had their uses restricted to storage). There are no comparable structures within the immediate area.

Relevant History

H16-1211-85 - Full. Pre-fabricated storage extension. Approved 05/03/86.

H16-0897-95 - Full. Extension to premises to form store. Approved 09/11/95.

H16-0323-24 - Full. Change of use of part of the ground floor of the premises, to E(a) (Retail Sale of Goods), including alterations to the elevations and installation of new plant to the rear. Refused 04/06/24.

H16-0713-24 - Full. Change of use of part of the ground floor of the premises, to E(a) (Retail Sale of Goods), including alterations to the elevations and installation of new plant to the rear - re-submission of H16-0323-24. Refused 15/10/24.

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:

Initial Consultations - Received 19/01/26 to 02/02/26

Environmental Protection - Noise and Light Pollution

No comments.

SELCP Ecologist

Summary: There has been sufficient evidence provided to determine this application and we have confidence that 10% net gain can be achieved on site..

Documents reviewed:

- BNG Small Sites Metric
- Biodiversity assessment.

Comments

Ecological Considerations:

-This site has habitats on site which are deemed suitable for nesting birds therefore, we request a condition requiring that: Works should not be carried out in the main nesting season (March 1st - August 31st). If not possible then a suitably qualified ecologist must perform a breeding bird survey of the site prior to any works beginning onsite. Any active nests discovered during inspections will be protected with a suitable exclusion buffer (of appropriate size to the species) to prevent disturbance and monitored until the nest is no longer active / all chicks have fledged, when the ecologist will provide a sign off for clearance work to continue

-We request that a total of 5 integrated universal nest bricks (e.g., S Brick, Swift Nesting Brick, Manthorpe, Swift Bricks: The 'Universal' Nest Brick - by Dick Newell | CIEEM) are incorporated into the external fabric of the buildings. These should be located at a height of 4+ m metres, on the north or east elevations to avoid overheating, and grouped colonially where possible, in accordance with best-practice guidance such as British Standard BS 42021:2022. The bricks must be installed during the construction phase and retained thereafter for the lifetime of the development.

-We also request that 2 integrated bat boxes (e.g., Integrated / Built-In Bat Boxes, Integrated Eco Bat Box | The Nestbox Company) are added to the development. These are required to enhance biodiversity and to meet local plan strategy 7.2.14.

BNG Comments and Notes to applicant:

-Overall, the biodiversity assessment and metric calculations appear rigorous, and we can have confidence in their conclusions. In this case the metric indicates that 10% mandatory net gain can be achieved on-site with a predicted overall gain of 160.1% in Habitat units

-We will require a biodiversity gain plan pre-commencement.

Conclusion:

There has been sufficient evidence provided to determine this application and we have confidence that 10% net gain can be achieved on site.

South Holland Internal Drainage Board

Please note that the Board are currently carrying out improvement works to Board arterial watercourses across the South Holland IDB district, including the replacement of the culverted section of watercourse known as A05 Exeter Drain (DRN192P0506) adjacent to the eastern site boundary of this development. The improvement works will involve increasing the size of the pipe. Therefore, the 9m Byelaw Zone should be measured from the outside edge of the new pipeline. This should be taken into consideration when reviewing this application. The Board are willing to

facilitate a site visit with the applicants/agents to determine the distances of the proposed works from the outside edge of the pipe. The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. The proposed works are unlikely to be acceptable to the Board (in accordance with the policies outlined within the WMA's Development and Consent pages on our website). Resultantly, the Board currently objects to this planning application. The reason for the Board's objection is to avoid likely conflict between the planning process and the Board's regulatory regime (as outlined below) and to prevent increased flood risk in accordance with National Planning Policy Framework.

Highway and Lead Local Flood Authority

ADDITIONAL INFORMATION REQUIRED

The whole of the frontage requires a dropped crossing - a note should be added to the proposed site plan to say it will be constructed to Lincolnshire County Council Specification.

The linear parking along the front should ideally be broken up with low level planting.

Secure cycle parking should be provided for each dwelling.

In accordance with the SELLP the parking for a 3-bed dwelling should be 2 spaces and for a 4-bed dwelling 3 spaces should be provided. You could argue that plots 4 and 5 could be a 4-bed dwelling as whilst it is noted that a room is a study it could be used as a bedroom.

Please include the dimensions of the parking spaces on the proposed site plan.

Anglian Water

Object due to proximity to existing asset.

Requests the imposition of a condition relating to headroom at the Anglian Water Recycling Centre.

Object due to lack of detail on surface water drainage - state that water should not be discharged into a public foul sewer.

Environment Agency

The proposed development will only meet the National Planning Policy Framework's requirements in relation to flood risk if the following planning condition is included.

Condition:

The development shall be carried out in accordance with the submitted flood risk assessment dated 19 August 2025, prepared by S M Hemmings and the following mitigation measures it details:

- Finished floor levels shall be set no lower than 1.0m above existing ground level, equivalent to 4.65mAOD
- The dwelling shall be a minimum of two storeys.
- Flood resilient construction shall be incorporate to a minimum of 0.3m above Finished Floor Levels, equivalent to 4.95mAOD
- Demountable defences shall be provided to 0.6m above the finished floor levels

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

Reasons

To reduce the risk of flooding to the proposed development and future occupants in accordance with Policy 4 of the South East Lincolnshire Local Plan 2011-2036."

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.

Environmental Protection - Contaminated Land

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

Further comments, received following reduction in plot numbers - received 16/03/26 and 30/03/26

Highway and Lead Local Flood Authority

Demolition of redundant commercial buildings and the erection of 4 dwellings. The proposed dwellings are 3 bed with a study on the second floor, and they are providing 8 parking spaces (2 each) which is acceptable. The previous arrangement on site for parking was similar in that vehicles would reverse onto the public highway. Secure Cycle parking should be provided; the dropped kerbs will need extending. The vehicle access construction should be to Lincolnshire County Council Specification. Please ensure that the parking area is of a bound material not loose gravel as this would be hazardous to the users of the public highway. The former use of the site could produce more vehicle movements therefore this would have less 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.

Highway Condition 11A:

Prior to first occupation on site further details relating to the vehicular access to the public highway, including materials, specification of works and construction method shall be submitted to the Local Planning Authority for approval. The approved details shall be implemented on site before the development is first occupied and thereafter retained at all times.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site

Highway Condition:

Prior to the occupation of any dwelling, written details of the secure cycle parking to be installed on site should be submitted to the Local Planning Authority for approval, upon approval it shall be installed on site and maintained as so, in perpetuity.

Reason: In order that the permitted development conforms to the requirements of the National Planning Policy Framework, by ensuring that access to the site is sustainable.

National Grid Energy

Please contact NGED if you require assistance regarding the 11kv and LV UG cables surrounding the land title boundary.

South Holland Internal Drainage Board

Withdraw previous objection, and outline that consent by the Board would be required.

Environmental Protection - Land Contamination

No comments regarding amendment 1 my previous comments remain the same.

Environment Agency

We note that the number of proposed dwellings has now been reduced from 5 to 4 and refer you to our previous letter dated 30 January 2026, for our position on this application, in which we recommended a planning condition in respect of flood risk. We would like to highlight again that the submitted drawings do not indicate how the finished floor levels will be achieved. We advise that further clarification is provided to ensure that there is no conflict between the submitted flood risk

assessment and submitted plans.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, five letters of objection have been received, from three properties.

These can be summarised as:

- Loss of privacy and overshadowing
- Noise and disturbance
- Parking and traffic impact
- Overdevelopment of plot
- Impact of height of proposal on character
- Lack of amenity space.

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.

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.

According to South Holland District Council's (SHDC) 5-Year Housing Land Supply Assessment (5YHLS) (June 2025), SHDC can demonstrate 5.5 years of housing land supply.

Furthermore, SHDC have scored at least 162% for the Housing Delivery Test over the last three years (Paragraph 1.4 of the 5YHLS Assessment). In accordance with Paragraph 232 of the National Planning Policy Framework, it is therefore not necessary to apply the tilted balance in favour of sustainable development in the determination of the current application.

Principle of Development

Spatial Strategy and Housing Need

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 a 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.

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 main service centre and makes a positive contribution to local housing stocks.

Therefore, the proposal is considered to be in accordance with Policy 1 of the SELLP, as well as Paragraphs 61 and 73 of the NPPF.

Previously Developed Land

Section 11 of the NPPF "making effective use of land" concerns the location of urban development. Paragraph 124 of Section 11 states:

"Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land".

Paragraph 125(c) expands upon this stating:

"planning policies and decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused".

Annex 2 of the NPPF provides a definition for brownfield land and previously developed land (which share a definition), which is as follows:

"Land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed). It also includes land comprising large areas of fixed surface infrastructure such as large areas of hardstanding which have been lawfully developed. Previously developed land excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape."

On this basis, the proposal is considered to conform to the definition of previously developed land as it would involve the redevelopment of an existing area of development. As such, substantial weight is given in favour of the proposal.

Summary

The proposal involves the redevelopment of previously developed land, within an appropriate settlement location. On this basis, the proposal is considered to be in accordance with Policy 1 of the SELLP and Sections 5 and 11 of the NPPF.

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

Policy Context

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.

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. Conversely, significant weight should be given to:

- a) development which reflects 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; and/or
- b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings."

South Holland do not have a local design guide, meaning that supplementary guidance on design matters is principally driven by national documents, including the National Design Guide (NDG). The NDG outlines broad principles for well designed places. The NDG is supported by the National Model Design Code (NMDC), which has a greater emphasis on matters such as density and built form, and approaches assessments in a more empirical manner.

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.

Assessment

Bar being a 20th Century residential area, Albert Street, and the surrounding locale, does not have an overly consistent or fixed design approach. There is a mixture of single and two storey dwellings, of dwellings and of materials. That being said, in the immediate area, bungalows are the predominant house type and what two-storey dwellings exist, are not overly tall.

The proposed dwellings would be three-storey and of a significant height. Given the relatively low building heights in the immediate vicinity and the flatness of land, the proposed dwellings would be highly dominant in the street scene and would appear as an incongruous feature. The scale would immediately mark the dwellings as an incompatible feature, which breaks the existing peak of building heights. Paragraphs 53 and 56 of the NDG broadly outline that well-designed development should be influenced by the existing proportions and characteristics of the area. On this basis, as the development would be significantly taller than its immediate counterparts, the proposal would contradict these paragraphs of the NDG.

In addition to marking the dwellings as an incongruous feature, the significant scale in comparison to neighbouring dwellings would equally result in the development appearing highly prominent and overly dominant. The significant height means that the development would be visible within a larger area, including areas of Willow Walk/Osier Road, in turn resulting in a more impactful development. This would result in any negative effects being exacerbated, whilst also fundamentally altering the established character of the area and changing established architectural focal points in the area.

The underpinning design approach would appear to be inspired by townhouses, which are not uncommon in the historic core of Spalding. This approach is referenced in the submitted design and access statement. These townhouses are primarily along the western bank of the river Welland, within the historic core of the town. The north-eastern Welland bank (e.g., the Fulney area which Albert Street would fall within) is largely a 20th century addition.

There is little visual or functional connectivity with the "older" portion of the settlement where these townhouses are present. As such, the two can be seen as visually distinct character areas. This view is supported by the details provided in the Spalding Extensive Urban Survey (produced by Lincolnshire County Council and Historic England, dated 2022), which demarcates the "Coronation Channel Expansion" area (which includes this site) as its own character area, distinct from the "Riverside" area where the townhouses are located. On this basis, whilst it is clear that the design is an homage to features which are present in Spalding, they are from a distinct and separate area within Spalding; and therefore, the introduction here would still be incongruous and would not contribute to a sense of place in the area.

As outlined above, the proposal site can be seen as visually distinct from the area which the design is inspired by. On this basis, the proposal would fail to root itself in the current sense of place of Albert Street, thereby failing to meet the objectives of paragraphs 51, 53, 56 and 58 of the NDG. As such, the design is considered inappropriate for its setting.

The proposed materials are considered to be acceptable. They are broadly reminiscent of those in the wider area, whilst still adhering to the underlying design principles of the development (albeit it is considered that these principles are misplaced here).

Taking account of the design and scale of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would have an adverse impact on the character and 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.

Due to the need to have no habitable space on the ground floor, the proposed living rooms would be on the first floor. The window serving these rooms all face south, towards Willow Walk. These properties do not have sizeable/useable rear gardens, although they do have north facing windows. Due to the orientation of the buildings, the windows of the proposed houses would look directly towards the windows of the relevant properties along Willow Walk. As a result, there would be a tangible overlooking effect, to the detriment of the residential amenity of the affected occupants.

Despite the significant scale, the proposal is not anticipated to have a harmful overshadowing impact. The north-south relationship with Willow Walks means that any light obscured would not be overly harmful, in accordance with BRE guidance, whilst adequate distance to the east and west properties has been maintained.

As detailed above, the scale and design of the proposal is considered to have a significant and unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users. As such, the proposal is considered contrary to 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.

Adequate parking has been provided for each dwelling. The arrangement would utilise existing parking places for the existing business. The proposed parking arrangements are considered to be acceptable, particularly given the potential demand for parking generated by the existing use of the site.

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)."

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 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 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 2m.

The submitted flood risk assessment has purely applied the Sequential Test on the basis of the Environment Agency maps, outlining that, as all of Spalding is classified as Flood Zone 3, it is not possible to locate the dwellings in a lower flood risk area. This matter is not agreed by the Local Planning Authority.

As outlined previously, Paragraph 174 of the NPPF outlines that the strategic flood risk assessment will provide the basis for applying the Sequential Test.

Para 8.3.6 of the SFRA details that "In order to carry out a Sequential Test it is necessary to define the geographical area in which a search for alternative sites at a lower risk of flooding will be undertaken. The search area for the test should be the whole of the Council area unless the functional requirements of the development justify a reduced search area". This is further clarified under this paragraph of the SFRA which outlines that "Housing developments will generally need to consider reasonably available alternative sites across the whole of the Council area unless they are intended to meet a specifically identified need e.g. the need for affordable housing in a particular settlement", and as such, indicates that the search area should comprise the whole of the district area.

Notwithstanding this, it is noted that para 029a of the Planning practice Guidance details that "For individual planning applications subject to the sequential test, the area to which the test needs to be applied will be governed by local circumstances relating to the catchment area for the type of development proposed and the needs it is proposing to address. The catchment area should always be appropriate to the nature and scale of the proposal and the settlement it is proposed for".

This goes on to detail that "The sequential test should be applied proportionately, focusing on realistic alternatives in areas of lower flood risk that could meet the same development need", whilst advising that "For a non-major housing development, it would not usually be appropriate for the area of search to extend beyond the specific area of a town or city in which the proposal is located, or beyond an individual village and its immediate neighbouring settlements". As such, this guidance advises that a reasonable search area for non-major housing development would typically comprise the settlement itself, or that with its immediate neighbouring settlements.

As such, the submitted Sequential Test is considered inadequate to meet the requirements of Section 14 of the NPPF. No search for alternative sites, using the SFRA as a basis for the risk of flooding, has been provided. As such, it cannot be said that the site is sequentially preferable from the submitted information.

That being said, even if a search for sites had been carried out, it is not considered that the site would be sequentially preferable; irrespective of whether this was considered in the form of a district wide search, or a settlement wide search. As outlined previously, within the SFRA, the site is given the highest classification of hazard, at highest flood depth predicted; comprising an area classed as danger for all, with a hazard depth of over 2m. Whilst all of Spalding is in Flood Zone 3 of the Environment Agency Maps, large areas to the west of Spalding are outside of identified hazard zones. This includes several allocated sites where construction is yet to commence. These sites, which the SFRA is explicit in stating can be considered when conducting the sequential test, could reasonably accommodate the development. The proposal is therefore considered to fail the sequential test.

In any event, even if the proposal could not reasonably be located elsewhere, it is still considered that the proposal would fail the Exceptions Test. Paragraph 178 of the NPPF 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"

In line with the Environment Agency's standard guidance, no habitable room has been provided on the ground floor. On the basis of the Environment Agency's guidance, it is considered that point b of Paragraph 178 has been met.

That being said, it is not considered that there are substantial enough benefits to outweigh flood risk. Whilst the redevelopment of previously developed land and the contribution to housing figures is noted, the identified character and amenity harm is considered to outweigh this, particularly in light of SHDC's ability to demonstrate a five-year housing land supply.

On balance, the proposal is considered to be contrary to Policies 2, 3 and 4 of the SELLP, as well as Section 14 of the NPPF. The site is considered to fail the Sequential Test, and in any event, would fail the Exception test also.

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.

The proposal would not be exempt from the need to display net gain. It is considered that this could be delivered either on site or off site.

Outstanding Matters from Representation

Anglian Water have formally objected to the proposal. This objection was on the grounds that the works would take place in too close of proximity to an Anglian Water asset. However, this took place before the submission of the amended plans reducing the number of plots. Clarification on this, and the location of the asset, were sought from Anglian Water by the Agent; however, no confirmation of the location of the asset was received. The level of harm was not quantified, nor was it stated exactly what byelaw/ regulation was breached. On this basis, this point is noted, but attached minimal weight.

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.

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 significant height of the proposal, coupled with its homage to a traditional townhouse, would fail to respect the existing proportions and character of the area. On this basis, the proposal is contrary to the guidance of the NDG and would by extension be contrary to Paragraph 139 of the NPPF. Significant weight is given against the proposal.

The proposal would overlook its rear neighbours, harming their residential amenity. The proposal would be contrary to the provisions of Section 14 of the NPPF, failing both the sequential test and exceptions test.

Therefore, despite the significant weight transferred under Section 11 of the NPPF due to the reuse of previously developed land, 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 contrary to Policies 2, 3, and 4 of the SELLP, as well as Section 12 and 14 of the NPPF. There are no significant factors in this case

that would outweigh the benefits of the proposal; therefore, the planning balance is not in favour of the proposal.

Recommendation

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