

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0028-26 **Applicant:** Mr J Heppenstall

Proposal: Demolition of existing dwelling and construction of new replacement dwelling and double garage

Location: 20 The Reservoir Surfleet Spalding

Terminal Date: 10th June 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
17	Providing a Mix of Housing
22	Replacement Dwellings in the Countryside
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0

PLANNING LIAISON OFFICER - FLOOD RISK ASSESSMENT	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for a replacement dwelling. The existing dwelling within the site comprises a detached single storey dwelling, whereas the proposed dwelling comprises a detached two-storey dwelling of a larger scale. Consent is also sought for a detached single storey garage at the rear of the site, to the north of The Reservoir.

There is a temporary caravan positioned within the site, and it is understood that the caravan is being used as temporary accommodation due to fire damage within the dwelling.

Site Description

The site comprises land at 20 The Reservoir which features a detached single storey bungalow. The bungalow is located to the south of a private access road and there is garden land to the north of the road which features two outbuildings and the previously referenced temporary caravan. The River Glen is located to the south of the site; however, the site is mostly surrounded by existing dwellings.

The site is located outside, though adjacent to the settlement boundary of Surfleet as identified within the South East Lincolnshire Local Plan (2019) and the accompanying policies map.

The site is within Flood Zone 3, as identified by the Environment Agency's flood risk maps.

Planning History

H17-0261-24: (Full Application) Proposed replacement dwelling and detached double garage - refused 20 May 2024 - appeal dismissed 27 March 2025

Consultation Responses

The responses received from consultees during the consultation period are summarised below. The responses can be viewed in their entirety on South Holland District Council's website.

Welland and Deepings Internal Drainage Board: No comments.

Lincolnshire Wildlife Trust: No comments.

Lincolnshire County Council - Historic Environment Officer: The proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application.

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

Lincolnshire County Council - Highways and SUDS: Demolition of existing dwelling and construction of new replacement dwelling and double garage. Reservoir Road immediately serving the site is not adopted highway it is however a public right of way. The Highways and Lead Local Flood Authority response is in relation to the impact the proposed development would be expected to have on the operation of the Public Highway. The highway authority has no jurisdiction over the use of this road. With regard to this application, we have considered the safety and impact of these proposals on Adopted part of Reservoir Road and its junction with (unadopted) The Reservoir. It is for the Local Planning Authority to determine whether the access provided by the private road is safe and suitable for all users. The proposal is acceptable in terms of highways safety and will not have an adverse impact on the highway. Planning condition 00 is recommended (this condition requires a construction management plan to be submitted and approved).

Environment Agency:

First Response (18 February 2026): In accordance with Policy 4 of the South East Lincolnshire Local Plan 2011-2036, we object to this application, due to the absence of an adequate flood risk assessment (FRA). The submitted FRA dated March 2024, ref: 'ECL1235/L BLISS', prepared by Ellingham Consulting Ltd does not comply with the requirements for site-specific flood risk assessments, as set out in paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance (PPG).

Second Response (22 April 2026): The revised flood risk assessment (FRA) dated March 2026, ref: 'ECL1235a/L Bliss', prepared by Ellingham Consulting Ltd does not meet the requirements of paragraphs 20 to 21 of the Flood Risk and Coastal Change Planning Practice Guidance (PPG). We therefore maintain our objection to this application. The submitted FRA utilises the 'Glen 467' node in its assessment of flood risk from the River Glen. However, the 'Glen 365' node provides modelled levels and flows which are closer to the application site. The closer node indicates greater flood levels could be experienced at the site than previously assessed. We therefore consider that the FRA should utilise the 'Glen 365' node, rather than 'Glen 467', to inform the assessment of flood risk over the lifetime of development. To overcome our objection, the applicant should submit a revised FRA and plans, which addresses the points highlighted above. If this cannot be achieved, we are likely to maintain our objection.

Third Response (01 June 2026): Following further discussion with the flood risk consultant, we are satisfied that the approach to the assessment of flood risk is acceptable. As such, we wish to revise our previous letter dated 22 April 2026. The proposed replacement dwelling will be acceptable in relation to flood risk, subject to the imposition of the following planning conditions (compliance with submitted FRA and restriction of permitted development rights).

The development site is located within a designated flood storage area and lies between flood defences. As such, the development site is regarded as being 'in channel'. Consequently, a Flood Risk Activity Permit will be required for the works under The Environmental Permitting (England and Wales) Regulations 2016.

We would advise that the permitted development rights, which allow the siting of a temporary caravan, are removed, should permission be granted for this development, or that it is limited as far as practicable and its removal secured (via planning condition) at the earliest possible opportunity.

Due to the nature of flood risk in this location, and the risk of occupants becoming isolated during the event of a flood, we strongly recommend that a flood warning and evacuation plan is produced for the proposed development.

Ecology Officer: No response received.

Surfleet Parish Council: No response received.

Cllr S A Slade: No response received.

Cllr J Avery: No response received.

Cllr E J Sneath: No response received.

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, no representations have been received from members of the public.

Key Planning Considerations

Development Plan

Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, requires that the Local Planning Authority (LPA) 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, December 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

There are no adopted Neighbourhood Plans for the area within which the site is located.

The main issues and considerations in this case include the following:

- Principle of Development;
- Design, Layout and Impact on the Character and Appearance of the Area;
- Impact on Residential Amenity;
- Highway Safety and Parking;
- Flood Risk;
- Biodiversity Net Gain; and
- Contamination.

These matters are assessed in turn below.

Principle of Development

Policy 1 of the Local Plan 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 outside, though adjacent to the settlement boundary of Surfleet which is a Minor Service Centre. Therefore, the site is within the countryside in planning policy terms. Part D of Policy 1 sets out that within the countryside, development will be permitted that is necessary to such a location and / or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

Notwithstanding the requirements of Policy 1, Policy 22 of the Local Plan allows for the replacement of dwellings in the countryside provided the policy criteria are addressed. As these criteria largely relate to the design and visual impact of the proposals, the proposals are assessed against the requirements of Policy 22 within the following section of this assessment.

Design, Layout and Impact on the Character and Appearance of the Area

Paragraph 135 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.

Policy 2 of the 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.

Policy 3 of the Local Plan accords with the provisions of Section 12 of the NPPF, 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.

The surrounding area is characterised by a range of house types set within a range of plot layouts and sizes. Therefore, there is no strict uniformity within the street scene; however, most of the nearest dwellings are detached and are set within relatively linear plots. The nearest dwellings are located to the south of The Reservoir which is a private access road, and there are gardens located to the north of the road. Some of these gardens feature outbuildings.

There is a mixture of single and two storey dwellings on The Reservoir. It is recognised that some of the dwellings have been replaced in recent years with larger dwellings.

According to the officer's report from application H17-0261-24:

"The Reservoir is an area of Surfleet that was mostly developed from the 1930s onwards and there are a range of historic temporary properties as well as repurposes and prefabricated single storey buildings in the area. A number of these are of relatively poor constructional quality and several have been replaced in recent years due to their deteriorating state."

There is also a variance in terms of the building materials including render, brickwork and cladding.

Policy 22 of the Local Plan sets out that proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that:

*"1. the residential use of the building to be replaced (the original building) has not been abandoned;
2. the original building is permanent, has not become derelict and is not the result of a temporary permission;
3. the original building is not of architectural or historic merit and is not capable of repair;
4. the replacement building is of a high standard in terms of architectural detailing and materials of construction;
5. the replacement building is positioned on a similar footprint to the original building unless it can be demonstrated that the re-positioning would have beneficial impacts such as improving the character and appearance of the site and its locality; and
6. the replacement building does not exceed the floor area of the original dwelling by more than 40%, unless the development is of exceptional quality or innovative in nature in terms of its design, use of materials and levels of energy efficiency."*

In terms of part 1, it is not considered that the site has been abandoned, and the LPA has no evidence to suggest otherwise. As such, the proposals accord with part 1.

In terms of part 2, it is unclear when the existing dwelling was constructed; however, it is considered that the building is permanent and as such, the proposals accord with part 2.

In terms of part 3, the existing dwelling features a gable end roof forms on its southern portion whereas the northern portion of the dwelling appears to comprise an extension that features a sloping roofline. The building features white cladding and a sheeting roof. It is not considered that the existing building is of architectural or historic merit and as such, the proposals accord with part 3.

In terms of part 4, the proposed replacement dwelling would share some similarities with 19 Reservoir Road which is the neighbouring dwelling to the west of the site. No. 19 features a replacement dwelling that was granted planning permission under application H17-0597-12 on 06 November 2012. Although 19 Reservoir Road is smaller than the proposed replacement dwelling,

No. 19 features a gable end roof form and white rendered facades. There are other examples of rendered dwellings within the area with similar building styles, including grey tiled roofs and an overall contemporary appearance.

The existing dwelling measures approximately 9.5m in length and 7m in width. The dwelling features a gable end roof form on its southern portion. The site slopes downwards towards the River Glen which is to the south. As such, the height of the dwelling from the ground level varies; however, at its tallest the dwelling measures 5.5m in height up to its ridgeline, and 3.7m up to its eaves.

The proposed replacement dwelling would result in a larger dwelling within the site. For example, the proposed replacement dwelling measures 10m in length and 8m in width. The dwelling is proposed to feature two gable end roof forms with gable ends of the southern, northern and eastern elevations. The finished floor levels are proposed to be higher from the ground level than the current dwelling for flood risk mitigation purposes. This has resulted in a higher roof form as the dwelling would measure 8m up to its ridgeline at its tallest point, and 7.4m in height on the side portion of the dwelling.

Initially, concerns were raised with the proposed scale of the dwelling as no street scene plans had been provided to show a comparison with neighbouring dwellings. The initial plans also did not show an accurate portrayal of the height of the dwelling as the plans did not account for the required finished floor levels. A street scene plan was subsequently provided and this has been taken into account.

Whilst the replacement dwelling would be taller than the dwellings on either side of the site, it is recognised that there is a variance in terms of dwelling heights within the street scene, particularly where replacement dwellings have been erected. As set out previously, the dwelling needs to include finished floor levels above the ground and this means that the dwelling is taller than it would be if this was not required for flood risk mitigation purposes.

The proposed external materials are considered to be acceptable given that there are examples of similar materials both next to the site and within the area.

Therefore, on balance, it is considered that the design of the dwelling is acceptable and the proposals accord with part 4.

The replacement dwelling would be positioned within a similar building footprint as the existing dwelling in accordance with part 5.

In terms of part 6, the replacement dwelling would increase the floor area compared with the existing dwelling by more than 40%. The increase in floor area largely results from the inclusion of an additional storey and more living space on the ground floor. It is considered that the replacement dwelling would result in an improvement over the design of the current dwelling and as such, the increase in floor area is considered to be justified and in accordance with part 6.

Therefore, it is considered that the proposals accord with Policy 22.

Policy 22 also sets out the following:

"Where permission is granted, Permitted Development Rights may be removed in order to control future alterations or extensions that may impact on the appearance and character of the surrounding area."

The replacement dwelling would be relatively close to the site boundaries and the overall built form of the dwelling is relatively large compared to neighbouring dwellings. Any further extensions could potentially prejudice the character and appearance of the area and as such, it would be considered appropriate to restrict permitted development rights for extensions to the dwelling.

Policy 22 does not specifically refer to outbuildings associated with replacement dwellings; however, it is considered that outbuildings should be suitably designed and of a proportionate scale to their host dwelling.

Initially, a detached garage building was proposed in the northern portion of the site to replace two existing outbuildings. The proposed outbuilding would have featured two storeys and it was

considered that the overall height and scale of the outbuilding would have been relatively large. This was discussed with the applicant's agent and revised plans have been provided reducing the scale of the outbuilding. The building is now proposed to be a single storey building. The scale of the building has also been reduced for flood risk mitigation purposes as the Environment Agency advised that the overall built footprint within the site should not exceed the existing built footprint.

The outbuilding is proposed to measure 6m in length and 3.9m in width. The building is proposed to feature a gable end roof form that measures 4m in height up to its ridgeline and 2.2m up to its eaves. The revised proposal for the outbuilding is considered to be acceptable as the outbuilding is considered to feature a suitable design in terms of its scale, siting and overall appearance.

It would also be considered appropriate to restrict other permitted development rights relating to the erection of additional outbuildings for flood risk mitigation purposes and in the interests of protecting the character and appearance of the area.

Impact on 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; 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 Local Plan set out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

It is considered that there would be sufficient internal living space and external amenity space for future occupants as a result of the proposals.

The replacement dwelling would be relatively close to the site boundaries; however, the existing dwelling is also close to the site boundaries. The replacement dwelling would be taller than the existing dwelling and this could result in a greater impact on the neighbouring dwellings. Based on a review of the height and positioning of the dwelling, it is considered that the dwelling would not result in an unacceptable degree of overshadowing. For example, the dwelling would not extend further southern than the rear elevations of the neighbouring dwellings.

Two side elevation windows are proposed on the eastern elevation which faces towards 21 The Reservoir. One of the windows would connect to a bathroom and the other window would connect to a kitchen. Although these windows do not appear to face directly towards neighbouring habitable windows, it would be considered appropriate to require obscure glazing for these windows in the interests of maintaining privacy given their proximity to the boundary with No. 21.

Therefore, the proposed development would not result in an acceptable impact on the residential amenity of neighbouring dwellings and future occupants, in accordance with Section 12 of the NPPF and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Paragraph 116 of the NPPF sets out 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, following mitigation.

Policy 2 of the Local Plan sets out 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 sets out 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 36 and Appendix 6 of the Local Plan, set out minimum vehicle parking standards. The standards require at least two spaces for dwellings of up to three bedrooms, and three spaces for dwellings with four or more bedrooms.

Access to the site is currently provided via The Reservoir which runs from Reservoir Road. The

Reservoir is not an adopted highway and it was noted during a site visit that the surfacing of the road is relatively uneven. Notwithstanding this, the road is considered to be acceptable as a means of accessing the site and the proposal is for a replacement dwelling. As such, the proposal is unlikely to result in an increase in comings and goings or to result in a greater burden on the road than is currently the case.

It is also considered that there is sufficient room for parking and turning within the site.

Lincolnshire's County Council's highways team have not raised any specific objections to the proposals and the team have set out that the proposed replacement dwelling would not have an adverse impact on the access track or the surrounding highway network.

The highways team have requested a condition requiring a construction management plan to be submitted and approved for the development. A construction management plan would not typically be required for a single dwelling due to the small-scale nature of the development and it is noted that the highways team have not requested a similar condition for another application that is pending determination for a replacement dwelling at 7 Reservoir Road under application H17-0880-26. As such, it is not considered that this condition is necessary in this instance.

Therefore, the proposal would be acceptable in terms of highway safety in accordance with Policies 2, 3 and 36 of the Local Plan, and Section 9 of the NPPF.

Flood Risk

Section 14 of the NPPF sets out guidance relating to how local authorities should assess and determine applications which are subject to flood risk concerns.

The site is located within Flood Zone 3. Policy 4 of the Local Plan sets out that development within Flood Zone 3 can be permitted in instances where specific criteria is met.

The proposed development is classed as a 'more vulnerable' use, according to Annex 3 of the NPPF. As the site lies within Flood Zone 3 and would comprise a more vulnerable use, the proposed development is required to pass the sequential and exception tests.

The site is identified within the 'Functional Floodplain' within the South East Lincolnshire Strategic Flood Risk Assessment (SFRA). The NPPG advises at Table 3 that only water compatible development is appropriate in the functional floodplain. This does not include residential development. Notwithstanding this, the proposal is for a replacement dwelling and as such, regardless as to whether permission is granted, the site will continue to be used for residential occupation. Therefore, it is considered appropriate to consider if the replacement dwelling offers an improvement in flood risk mitigation terms.

The application is accompanied by a Flood Risk Assessment (FRA), which contains sections relating to how the applicant considers that the proposed development passes the sequential and exception tests.

The NPPF requires the application of a sequential test to ensure that new development is in areas with the lowest probability of flooding. In terms of replacement dwellings, the SFRA sets out the following at Paragraph 8.3.5:

"Replacement dwellings: Where an individual proposes to redevelop their property in an existing flood risk area the consideration of alternative sites is not likely to be a realistic option. In such instances, the Sequential Test should include a statement as to why there is no alternative available to them to develop. This simple statement will satisfy the Sequential Test provided that they:

- 1) Do not increase the number of bedrooms; and*
- 2) Do not increase the number of dwellings in an area of flood risk (i.e. through the replacement of a single dwelling with an apartment block); and*
- 3) Do not significantly increase the floor area of the building (i.e. beyond 40% of the original)."*

Whilst the submitted FRA does not contain a site search exercise, as set out above, planning guidance requires the sequential test to be applied proportionately and appropriately. In this case, the proposal is for a larger replacement dwelling; however, the replacement dwelling would not contain more bedrooms than the existing dwelling. As set out previously, the floor area is proposed to increase beyond 40% of the original floor area, largely as a result on including an additional

storey. In this case, the increase in floor area is considered to be acceptable in terms of its visual impact within the street scene. As such, it is considered that the sequential test is passed in this case.

In terms of the exceptions test, Paragraph 178 of the NPPF requires the following to be demonstrated:

"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 terms of part a, sustainability benefits can be broad and there is no specific list of benefits outlined within planning policy or guidance. The NPPG sets out some examples of sustainability benefits such as the re-use of previously developed land and the provision of sustainable drainage systems (Paragraph: 036 Reference ID: 7-036-20220825). The development would re-use previously developed land to erect a replacement dwelling which can be considered as a sustainability benefit. The application form indicates that the proposed means of surface water drainage is via a soakaway, which is a sustainable form of drainage. It is unclear if a soakaway is feasible at this stage as the application is not accompanied by infiltration testing results. Furthermore, soakaways need to be 5m from any building and 2.5m from any boundary. Based on the proposed layout, it is considered unlikely that soakaways would be feasible. Notwithstanding this, further details of the surface water strategy for the site could be secured via a planning condition.

In terms of part b, 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. The SFRA sets out at Paragraph 9.1.5 that there are a range of factors to be considered when determining whether or not a development is 'safe'.

As set out previously, the Environment Agency (EA) initially objected to the application as the submitted FRA was considered to be inadequate. This was discussed with the applicant's agent and they were provided an opportunity to submit a revised FRA. The EA were re-consulted; however, their objection was maintained as the EA considered that the incorrect node data was used on the River Glen to determine the relevant modelling. Within their third consultation response, the EA have clarified that their objection is removed, and the EA have clarified separately that this is because the node data is in fact considered to be correct.

As set out previously, the EA have recommended planning conditions requiring the development to be carried out in accordance with the submitted FRA and restricting certain permitted development rights. As such, with the inclusion of relevant conditions, it is considered that the proposal passes the exception test.

Therefore, it is considered that the proposed development accords with Policy 4 of the Local Plan and the intentions of the NPPF in terms of flood risk and drainage.

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 (BNG) 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.

In this case, the application is accompanied by a BNG Exemption Statement which claims that the development is exempt as it would comprise a self-build dwelling. The Council requires developers to provide or agree to a legal agreement to secure proposals as self-build dwellings as it is considered necessary to secure proposals as self-build dwellings formally, such as including them on the Council's self-build register. The approach of requiring self-build dwellings to be accompanied by a legal agreement has been accepted by inspectors within recent appeal decisions within the district.

Notwithstanding this, in this case it is considered that the proposal would be exempt from BNG as the proposal falls under the de minimis exemption as less than 25sqm of habitat would be affected by the proposals.

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 is appropriate and would not materially harm the character or appearance of the locality. The development is acceptable in terms of highway safety and flood risk management. Overall, the proposed development accords with the Local Plan and the NPPF.

Additional Considerations

Public Sector Equality Duty

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

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

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

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

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

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

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

Human Rights

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

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

Taking the above considerations into account, the proposal is considered to be in accordance with Policies 1, 2, 3, 4, 10, 11, 17, 22, 28, 30 and 36 (including Appendix 6) of the Local Plan, along with the identified sections contained within the NPPF. There are no significant factors in this case that indicate against the proposal and outweigh the consideration in favour of the proposal and the policies referred to above.

Recommendation

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