

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H18-0936-25 **Applicant:** Mr & Mrs Grundy

Proposal: Demolition of existing agricultural building (with Class Q prior approval H18-0314-25) and erection of 2 storey 4 bed dwelling

Location: 185 Avenue Farm Road Sutton Bridge Spalding

Terminal Date: 4th December 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
29	The Historic 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 and 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	1	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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for the demolition of the existing agricultural building within the site and the erection of a two-storey detached dwelling. The proposed dwelling would be partly located on the footprint of the agricultural building; however, the footprint would also extend further to the north. The dwelling is proposed to feature a combination of brickwork and cladding.

Site Description

The application site comprises an existing building located on land adjacent to 185 Avenue Farm Road, Sutton Bridge. Avenue Farm Road is within a rural area and there is sporadic development next to the road including some dwellings and agricultural buildings. The site features a building with a U-shaped layout which is set back from the road frontage on Avenue Farm Road.

The site is outside any defined settlement boundary, as identified by the South East Lincolnshire Local Plan 2011-2036 and the accompanying policies map. Therefore, the site is within the countryside in planning policy terms.

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

Planning History

H18-0314-25: (Prior Approval) Proposed Barn Conversion - prior approval granted 15 May 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.

Environment Agency: This proposal comes under cell D8 of the local flood risk standing advice and does not appear to fit any other criteria on our consultation checklist, 'When to consult the Environment Agency'. It was therefore not necessary to consult us; please consider the proposals against the guidance of the standing advice.

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.

South Holland Internal Drainage Board: Byelaw 3 (Surface Water) The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. The Board recommend that any discharge is in line with the National standards for sustainable drainage systems (SuDS) published in June 2025. Further to the National Standards for SuDS, the Board's policy is to restrict discharges to 2l/s/ha or annual average flood flow rate (QBar or QMed), whichever is higher. Please note that any consent granted for the discharge of surface water is likely to be subject to a Surface Water Development Contribution fee (SWDC) as outlined within our Development Control Charges and Fees. Byelaw 3 (Treated Foul Water) I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3. Please note that any consent granted for the discharge of treated foul water is likely to be subject to a Treated Foul Water Development Contribution fee (TFWDC) as outlined within our Development Control Charges and Fees. Section 23, Land Drainage Act 1991 I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary, however this should be confirmed by the applicant. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4). Byelaw 10 There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Lincolnshire County Council - Highways and SUDS: Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Sutton Bridge Parish Council: At its meeting held on 28th October 2025, Sutton Bridge Parish Council considered the above planning application and resolved to object to the proposal. The Council notes that the original application was for a barn conversion, which was considered acceptable and in keeping with the character and rural nature of the site. However, the current proposal represents a new development, which the Council believes is inappropriate for a location outside the defined planning envelope. The Council is concerned that permitting this application would set an undesirable precedent for further development in open countryside, contrary to established local planning policies aimed at protecting the rural character of the area.

Environmental Protection: Due to the proximity of nearby dwellings, ensure proper provisions are made for dust suppression during demolition and construction.

Environmental Protection (Contaminated Land): I have reviewed Goldfinch Environmental Limited, Tier 1- Contamination Risk Assessment, Report Ref: 1006/1, Dated: June 2025. I request a Phase 2 assessment is undertaken at this location as further investigation is required, particularly with regards to the former boiler house and areas where oil drums have been stored.

CLlr C J T H Brewis: No response received.

CLlr M D Booth: No response received.

Lincolnshire Bat Group: No response received.

Ecology Officer: 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 letters of representation have been received.

Key Planning Considerations

Development Plan

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, 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 and Visual Impact;
- Impact on Amenity;
- Highway Safety and Parking;
- Flood Risk;
- Biodiversity Net Gain; and
- Contamination.

These matters are assessed in turn below.

Principle of Development

Paragraph 84 of the NPPF sets out that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

"a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential building; or
e) the design is of exceptional quality, in that it:
i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."

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 any defined settlement boundary. The nearest settlement to the site is Sutton Bridge, for which the settlement boundary is approximately 2km to the south-east of the site. 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.

It has not been demonstrated that residential development is necessary in this location; for example, in conjunction with agriculture or other rural based business. Furthermore, the site is physically divorced from larger service settlements. In the absence of footways and given the distances involved, it would be difficult to access these settlements for the day to day needs of the occupants without use of a private car. Consequently, the proposal does not accord with Policy 1 and would not normally be considered a suitable site for new housing.

The application is accompanied by a Design and Access Statement, within which reference is made to a prior approval consent that was permitted on 15 May 2025 using Class Q permitted development rights (H18-0314-25). This consent related to the building within the site that is proposed to be demolished under the current proposals. According to the statement the proposed development in this instance "is justifiable given that the development is a betterment to the local area and will have no detrimental impact to the surrounding agricultural space".

Caselaw has demonstrated that Class Q consents are a legitimate fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in *R v Secretary of State for the Environment and Havering BC* (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly, if the answer to the second question is "yes", a comparison must be made between the proposed development and the fallback use."

The notion of the Class Q fallback position was also comprehensively dealt with at the landmark Court of Appeal case, *Mansell vs Tonbridge and Malling Borough Council* (2017). This case established that that where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority. Therefore, where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could be allowed to proceed.

The local authority considers that there is a realistic prospect that the Class Q conversion could take place. Consent has recently been granted, and the developer has three years to complete the development. Therefore, it is necessary to consider if the current proposals offer either an enhancement to the setting or a reduction in density when compared to the fallback position. This is discussed within the remainder of this assessment.

Design and Visual Impact

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.

NPPF Paragraph 187b sets out the following:

"Planning policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services - including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland."

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 proposal would result in the demolition of the existing barn structure within the site, and its replacement with a two-storey dwelling. The dwelling would feature various elements. The central part of the dwelling is proposed to measure 23m by 6.2m, featuring a gable end roof form that measures 7.5m in height up to the ridgeline and 5.2m in height up to the eaves. This part of the dwelling features curved arch windows on the front elevation and windows on the side elevation. A two-storey front extension is proposed measuring 7m by 7m, also featuring a gable end roof form. Large, glazed windows are proposed on the front elevation of the extension. On the western elevation of the extension, two dormer windows are proposed, two floor length windows on the ground floor and a chimney breast. The other elevation is blank. There is also a two-storey rear extension that feature a both a gable end roof form and a sloping roof line. In terms of materials, a combination of vertical cladding and brickwork is proposed. The exact details of the materials are not yet specified.

One of the considerations for betterment is whether the new proposal would enhance the setting of the area. In this case, the site is mostly surrounded by flat and open agricultural land, though there are 2 dwellings located to the west of the site. Therefore, the site is set within a countryside setting. The Class Q conversion proposed to retain the form, siting and general appearance of the building within the site, all of which has been informed by the open countryside context of the site. Furthermore, the approved red line boundary from the Class Q conversion application was much smaller than the current red line boundary. It is unclear where the garden space is proposed under the current proposals; however, based on the red line boundary the garden area could be significantly larger than under the Class Q conversion.

The scale and bulk of the proposed new dwelling would be significant compared with the approved Class Q conversion. It is considered that the multiple, competing roof forms and overall bulk of the dwelling would result in poor design that would be incongruent within the surrounding landscape. The submitted Design and Access statement fails to justify the design rational in terms of its appropriateness to this location. Whilst some additional information has been provided by the applicant's agent regarding the design, it is not considered that this sufficiently justifies the proposal.

The proposed design does not appear to be based upon any contextually related design traits that are inherent in the existing barn or the approved conversion. It is not considered that the proposal would enhance the setting of the area. The increased residential curtilage could even potentially result in more visual harm if residential paraphernalia is installed, given that this does not require planning permission.

Furthermore, as set out within the Flood Risk section of this assessment, the flood risk mitigation for the proposal requires the finished floor levels to be 1m above the ground level. The submitted plans do not confirm the existing or proposed site levels and the elevation plans appear to show that the finished floor levels would be at the ground level. This has been queried with the applicant's agent and they have set out that the intention is to raise the ground levels of the site by 1m to ensure the proposals are 1m above the surrounding ground levels. Whilst this is not shown within the submitted plans, this would further exacerbate the visual harm of the proposals by siting the dwelling on elevated land within a flat landscape.

It is considered that through the siting, orientation, footprint and form of the proposed development, this would result in a more urbanising effect upon this part of the countryside than the Class Q consent. This is considered to result in more harm to the character and appearance of the area than the previous approval. Furthermore, the applicant has failed to demonstrate a clear or overriding justification as to why such a design should be considered acceptable in this location. Therefore, it is not considered that the proposed design represents betterment over the Class Q conversion, which was a more sympathetic and appropriate design, particularly given the rural and open countryside character of the site. As such, the proposal is considered to be contrary to the aims of Policies 2 and 3 of the Local Plan, and Paragraph 187(b) of the NPPF.

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.

The nearest dwellings to the site are 183 and 185 Avenue Farm Road, located to the west of the site. There are no dwellings to the north, south or east of the site. It is considered that there would be suitable separation distances between the proposed dwelling and the nearest dwellings to prevent an unacceptable degree of overlooking. For example, there would be approximately 6.5m between the eastern side elevation of the dwelling and the boundary with No. 185. There would also be approximately 15m between the side elevation and the nearest elevation of No. 185. A bedroom window is proposed at the first-floor level which would face towards the rear garden of No. 185; however, the plans indicate that this window would be obscure glazed. As such, the use of obscure glazing could be secured by condition, and this would prevent an unacceptable degree of overlooking. The proposed dwelling would also not overshadow the nearest dwellings. Furthermore, the proposed dwelling would provide ample internal living space and external amenity space for future occupants.

Therefore, the proposed development would not result in an unacceptable impact on the residential amenity of neighbouring dwellings or future occupants. As such, in amenity terms the proposal is considered to accord with the provisions of the 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.

Lincolnshire County Council's (LCC) highways team have not set out any objections to the proposed development, nor have any conditions been recommended. No changes are required to the existing access to the site from Avenue Farm Road and there is sufficient room for parking and turning within the site. 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.

Policy 4 of the Local Plan allows for certain types of development within Flood Zones 2 and 3 in instances where specific criteria are 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 NPPF requires the application of a sequential test to ensure that new development is in areas with the lowest probability of flooding. Paragraph 8.3.6 of the South East Lincolnshire Strategic Flood Risk Assessment (SFRA) sets out that the search area for the sequential test should be the whole of the council area unless the functional requirements of the development justify a reduced search area. Notwithstanding this, National Planning Practice Guidance (NPPG) sets out that the sequential test should be applied proportionately, and the search area should always be appropriate to the nature and scale of the proposal (Paragraph 027a Reference ID:7-027a-20220825). The NPPG also sets out the following:

Paragraph 27: *"In applying paragraph 175 a proportionate approach should be taken. Where a site-specific flood risk assessment demonstrates clearly that the proposed layout, design, and mitigation measures would ensure that occupiers and users would remain safe from current and future surface water flood risk for the lifetime of the development (therefore addressing the risks identified e.g. by Environment Agency flood risk mapping), without increasing flood risk elsewhere, then the sequential test need not be applied."*

Paragraph 27a: *"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."*

Whilst a district-wide search would typically be required as the proposal is located within the countryside, it is recognised that there is fallback position in this case that would allow for the provision of 1 dwelling within the site if the prior approval consent was implemented and completed. Furthermore, as per the above referenced guidance, if it can be demonstrated that future occupiers can remain safe and that flood risk would not increase elsewhere as a result of the proposals, the sequential test need not be applied.

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, the proposal would provide a dwelling which would provide a moderate contribution to the district's housing land supply. It is not considered that there are any notable sustainability benefits that would be provided to the community.

In terms of part b, the submitted FRA sets out that although the site is within Flood Zone 3, the probability of the development flooding from localised drainage systems is low. The 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. Within the SFRA, areas across South Holland have been identified according to the level of hazard that is posed in terms of flood risk. Appendix C of the SFRA sets out guidance in terms of the minimum measures that are required according to what hazard category areas fall under. The site is identified within a 'Danger to Most' hazard rating area. The SFRA recommends that finished floor levels (FFL) of the dwelling are 1m above the surrounding ground levels and that 0.3m of flood resilient (recovery) construction is included above the FFL. The submitted FRA accords with the recommended mitigation and the recommended measures could be secured via a condition.

According to the application form, the proposed means surface water drainage is via soakaways. Further details of the proposed drainage strategy would need to be secured as it is unclear if soakaways are feasible. A sustainable drainage strategy would be encouraged, and an alternative drainage strategy would only be permitted if it was demonstrated that a sustainable drainage strategy was infeasible. For example, if the ground conditions were not suitable for soakaway infiltration.

There is a lack of information relating to a district wide search for alternative sites to pass the sequential test and a lack of information to demonstrate sustainability benefits to the community. Notwithstanding this, it is considered that an appropriate level of flood risk mitigation is proposed, and the development would remain safe from current and future surface water flood risk for the lifetime of the development. As such, given this alongside the fact that the site is subject to a scheme that would form a residential unit if implemented through the prior approval consent, it is considered that the proposal accords with Policy 4 of the Local Plan and the intentions of the NPPF in terms of flood risk.

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.

The application is accompanied by a BNG Exemption Statement which sets out that as the proposals is for a self-build dwelling, the proposal is exempt from providing BNG. It appears that the applicant has had an input into the design, which appears to be bespoke for the site and as such, the proposal could be considered as a self-build or custom build dwelling which would be exempt from BNG. In such circumstances, the Local Planning Authority require applicants to prepare a unilateral undertaking agreement to secure developments as self-build proposals. Whilst the application is not accompanied by such an agreement, the Local Planning Authority would be willing to allow time for such an agreement to be prepared if the development was acceptable overall.

The application is also accompanied by an Ecological Impact Assessment. This report sets out that the main barn within the site was assessed as having low suitability to support roosting bats. The storage buildings to the front of the main barn were also assessed as having negligible suitability to support roosting bats. One dusk activity survey was carried out on 26 June and no emergence from the building was observed. Bat activity around the site was very low. No other protected species were assessed as likely to be present on the site and as such, no further surveys were recommended. Therefore, it is considered that the proposed development is unlikely to affect protected species.

The Ecological Impact Assessment recommends that external lighting is appropriately designed to minimise its impact on wildlife. The assessment also recommends bird and bat boxes are installed to provide habitat. These details could be secured via conditions.

Contamination

Policy 30 of the Local Plan requires proposal not to be permitted if they would result in an unacceptable adverse impact upon the health and safety of the public or on land quality.

The application is accompanied by a Tier 1 Contamination Risk Assessment. This assessment concludes that there is not considered to be readily identifiable sources of contamination and as such, a Phase 2 intrusive investigation would be unnecessary. However, the council's environmental protection team have requested a Phase 2 assessment and this would need to be secured via a condition.

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 site is within the countryside in planning policy terms due to its location outside of any defined settlement boundary. The countryside is the least sustainable location for development within the area's settlement hierarchy, as identified by Policy 1 of the Local Plan. The 'tilted balance' in favour

of sustainable development is not engaged at the present time, as the local planning authority can demonstrate 5.5 years of housing land supply.

Whilst the proposal would be contrary to Policy 1, it has been necessary to consider if the current proposals would provide a 'betterment' on the approved Class Q conversion (H18-0314-25). This approval represents a valid fallback position. On this basis the appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' is relevant. In such instances, where the alternative new-build proposal offers either an enhancement to the setting or a reduction in density when compared to the fallback, the development could (and perhaps should) be allowed to proceed. However, this fallback position does not represent a fait accompli that any subsequent design or scheme should automatically be accepted.

In this case, it is not considered that the proposed dwelling represents betterment over what has already been approved within the site. On the contrary, the Class Q conversion was a more sympathetic and appropriate design in this rural and open countryside location and setting. As such, the proposal is considered to be contrary to the aims of Policies 2 and 3 of the Local Plan, and Paragraph 187(b) of the NPPF.

it is considered that the harm brought about by the development would not outweigh the benefits, given the fallback for the site already enables the development of a dwelling. The Class Q conversion would allow for a more appropriate development which is in-keeping with and preserves the character of the area and surrounding countryside. As such, the planning balance is against the development and the proposal is recommended for refusal.

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 into consideration these factors, the proposal is considered to be contrary to Policies 1, 2 and 3 of the Local Plan, in addition to the identified sections contained within the NPPF. On this basis, the proposal is recommended for refusal.

Recommendation

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