

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H19-1016-25 **Applicant:** Mr & Mrs S Ward
Proposal: Replacement detached dwelling following fire damage
Location: Eastward Lodge 41 Lutington Gedney Hill
Terminal Date: 23rd January 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
22	Replacement Dwellings in the Countryside
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 5 - Delivering a sufficient supply of homes
 Section 9 - Promoting sustainable transport
 Section 12 - Achieving well-designed places
 Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a full planning application seeking permission for a replacement dwelling following fire damage at Eastward Lodge, 41 Luttongate, Gedney Hill.

The proposed replacement dwelling would have a total height of 5900mm and would be at 2500mm to the eaves. Furthermore, it would have a height of around 5700mm to the front gable projection whilst this would have a height of 3400mm. Finally, there would be a small flat roof rear section which would measure to 2800mm.

It would be constructed from traditional brick and stone Lynton Blend brickwork and black cedar board cladding to the front gable and dormers. The roof would be constructed from Redland Grovebury Tudor brown tiles and the windows and doors would be made from uPVC in black.

Site Description

The site is located outside any defined settlement boundary and is therefore in the open countryside as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). Eastward Lodge is in a small cluster of dwellings in between Gedney Hill and Throckenholt and is set directly in front of a large plot of glass houses. Prior to the fire damage, the bungalow was constructed from bricks with a tiled roof and brown uPVC windows and doors and was of a similar size and design to the surrounding dwellings nearby.

History

H19-0597-89 - Erection of bungalow in connection with agriculture - Approved

H19-0914-90 - New bungalow and garage - Approved

H19-0433-02 - Proposed agricultural bungalow - Refusal

H19-0625-03 - Proposed agricultural bungalow - Approved

H19-1232-25 - Erection of detached domestic garage - Retrospective - Currently Undecided

Consultation Responses

North Level Internal Drainage Board

No objections.

Lincolnshire County Council Highways Authority

Recommendation: No Objections

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.

Comments:

This proposal is for replacement detached dwelling following fire damage. The access and parking arrangements remain unchanged; therefore, it is considered that the proposals would not result in an unacceptable impact on highway safety.

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.

Lincolnshire County Council Historic Places

Thank you for consulting us on this.

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

Comments after Amendment 1

Thanks for consulting us on this, We reiterate our previous comments dated 19-11-25. Also, no objection to amendment 1.

South Holland District Council Environmental Protection

No comments regarding land contamination or environmental protection.

Comments after Amendment 1

No comments regarding amendment 1.

Public Representation

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

The main issues and considerations in this case are (but are not limited to):

- Principle of Development and Sustainability
- Layout, Design and Impact on the Character of the Area
- Impact on Neighbouring Residents/Land Users/Land Uses
- Highway Safety and Parking
- Flooding Risk Considerations and Drainage
- Biodiversity

Evaluation

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

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above .

The policies and provisions set out in the National Planning Policy Framework (updated December 2024) 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.

Planning Considerations

Principle of Development and Sustainability

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.

However, the site in this instance is located outside of any settlement boundary as set out in the South East Lincolnshire Local Plan (2019) (SELLP). Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". Therefore, the application site in this instance is considered to be within the countryside in planning policy terms.

Policy 1 of the South East Lincolnshire Local Plan (2019) (Spatial Strategy) states that development within the countryside is limited to that where it "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". Independent dwellings within the open countryside, which do not meet a specific housing need as illustrated within the supporting context of Policy 1, would therefore typically be resisted in principle.

Expanding upon when a development can be considered to necessitate a Countryside location, the supporting text to Policy 1 states that "housing needs may also, by exception, be justified in the Countryside; for example, for Gypsy, Traveller and Travelling Showpeople accommodation (Policy 20: Accommodation for Gypsies, Travellers and Travelling Showpeople) or to meet the specific housing settlement needs of a settlement (see Policy 19: Rural Exceptions Sites)".

The proposed development seeks permission for an independent dwelling and as such, does not seek permission for development outlined within the above and as such, is not considered to meet the provisions of either of these policies.

Notwithstanding the above, Policy 1 is supported by Policy 22 of South East Lincolnshire Local Plan (SELLP) 2019, which relates to Replacement Dwellings in the Countryside. This policy states that *"Proposals for the erection of replacement dwellings outside defined settlement boundaries will be permitted provided that six criteria is met. These are listed below:*

"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.

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."

Assessing the proposal against this Policy, the following is considered:

1 - This point regarding whether the use of the building has been abandoned or not is particularly pertinent when assessing the application due to the fire damage within the dwelling currently. Photos have been provided within the submission and it was seen during the officer's site visit that the dwelling has been fairly damaged from this fire, mostly to the roof of the dwelling which appears to have collapsed with various windows also being damaged. Trustees of the Castell-y-Mynach Estate v SSW (1985) outlined how abandonment should be assessed and is dependent on four criteria, these are, the physical condition of the building, the period of non-use, whether there has been any intervening use and the owner's intention as to whether to suspend the use or cease it permanently. Furthermore, in regards to the owner's intention, in Hughes v SSETR (2000), the Court of Appeal held that the test of the owner's intention should be objective, the view to be taken by a reasonable man with knowledge of all the relevant circumstances. The owner's intention shall not however be elevated to a paramount status, or conversely subordinate other relevant considerations. The weight to be attached to each of the four criteria when determining abandonment is a matter for the decision taker. It is important to note that no one of the four criteria established in Castell-y-Mynach can be decisive.

As stated above, due to the fire damage the physical condition of the building is somewhat poor. The majority of the roof has collapsed with windows also being damaged, however, the foundations and brickwork appear to be situ and remain mostly unharmed. The overall physical condition externally is considered to be suitable in this instance, with fire damage being a truly exceptional circumstance rather than neglect over years etc. Furthermore, in previous correspondence it was outlined that the house suffered fire damage on 22/06/25 meaning it has only had a period of non-use for around four months when the application was submitted and seven months at the time of writing the report. As such, this period of non-use is very minor and the owner's have shown intent of wanting to reinstate the building to a habitable state. This ties in to the owner's intention to note suspend or cease the use permanently and due to the circumstances they could not realistically have acted much sooner. Finally, there has not been any intervening uses on site since the damage from the fire.

As such, it is considered that the residential use of the site is not abandoned despite the damage from the fire and the condition of the dwelling currently and the proposal passes the tests outlined in Castell-y-Mynach.

2 - In a similar light to the previous point, it must be assessed whether the building has become derelict following the fire damage. Firstly, it should be discussed that the original building is permanent and is not the result of any temporary permission. From the photos submitted within the application and what was seen during the officer's site visit it is clear that there is notable damage to the property as a result of the fire with this mostly being to the roof and windows. The brickwork has remained in situ resulting in the foundations being firmly in place. As the fire happened in June there has not been a significant amount of time to allow for the dwelling to actually become derelict, therefore, the original building has not become derelict and conforms with this point of Policy 22.

3 - The original building before the fire damage was not considered to be of architectural or historic merit due to it being a fairly standard design for a residential bungalow. Furthermore, due to the fire damage on site it is most likely not capable of repair.

4 - The replacement dwelling is considered to be of a high standard in terms of architectural detailing and materials of construction. Whilst it is not a truly exceptional design it is considered to be of a high enough standard to conform with this point and be considered acceptable. There is a large glazed feature on the front elevation, which fronts the highway, on the front gable projection which allows it to appear modern and an improvement to the area in comparison to the original building. Furthermore, there are two gables on the front elevation and three to the rear which are also an improvement to the previously suggested box dormers. Finally, the materials of construction include traditional brick and stone Lynton Blend and black cedar board cladding along to the front gable and dormers. These materials for the walls help to create a fairly modern design and one that is of a suitable standard within the area in this regard.

The design appears suitable and provides a positive feature within the character of the area.

5 - The replacement building is to be positioned on a practically identical footprint to the original building with only slight increase in ground floor floor space through filling in the existing gap at the front and a very minor rear extension.

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

The replacement dwelling would exceed the floor area of the original dwelling by around 99% and therefore exceeds the 40% limit. In any case, the development is considered to be of a enough standard from a design perspective to ensure that this increase is acceptable and would not cause harm to the area. Furthermore, this application falls within an exceptional circumstance for the most part due to the fire damage resulting in a replacement dwelling being required. The applicant would most likely have not submitted an application for this if this wasn't the case. Therefore, despite this increase in floor space the application is considered to be acceptable.

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

Section 12 of the National Planning Policy Framework (December 2024) specifically relates to 'Achieving well-designed places' and details that the "creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout and appropriate landscaping. This goes on to establish that it is important that new development should be of the highest quality to enhance and reinforce good design characteristics, and that decisions must have regard towards the impact that the proposed development would have on local character and history, including the surrounding built environment and landscape setting such as topography, street patterns, building lines, boundary treatment and through scale and massing.

Development proposals should also ensure that developments create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users, among other considerations.

Likewise, Policy 2 of the South East Lincolnshire Local Plan (2019) outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the National Planning Policy Framework (December 2024), in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

These policies accord with the provisions of the National Planning Policy Framework (December 2024) and require that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

Proposals for new development would therefore require the aforementioned considerations to be adequately assessed and designed, including the siting, design and scale to be respectful of surrounding development and ensure that the character of the area is not compromised.

The measurements of the replacement dwelling (outlined previously) are considered to be acceptable and proportionate in relation to the area. Whilst it is an increase and would see the change from a bungalow to a chalet bungalow this is considered to be acceptable due to there being various designs of dwellings in the immediate area. The area mostly features bungalows, however, Ash Tree Lodge (37 Luttgogate), is a two storey dwelling showing that there is some diversity in the area and that a chalet bungalow would not be harmful to the area. Furthermore, the extra space would be put to use for the residents living within the property. The materials for the replacement dwelling have also been outlined above and would be considered to be acceptable to

the area as well as meeting the necessary point within Policy 22 to ensure that the proposal is of a high standard particularly in relation to the materials of construction.

The hallway provides access into the open plan lounge, kitchen and dining area as well as the ground floor bedroom and various additional rooms. The central stair case allows for access into the first floor which features two bedrooms of identical sizing and layouts. All rooms feature adequate windows to allow for natural light, the layout flows well and meets the Nationally Described Space Standards.

Taking account of the design, scale and nature of the development, as detailed above, the proposal is considered to be acceptable. The proposal would not cause an adverse impact to the character or appearance of the area and would therefore be in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019) and Section 12 of the National Planning Policy Framework (December 2024).

Impact on Residential Amenity/ Land Users

Paragraph 135 of the National Planning Policy Framework (December 2024) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

No existing plans have been provided and therefore the LPA are unable to accurately determine the height of the dwelling. Naturally, it would increase due to changing from a standard bungalow to a chalet style bungalow with habitable rooms in the new first floor. In any case, this increase in height would be fairly minor and not substantial enough to increase material overshadowing impacts and result in a material loss of light. Furthermore, due to the positioning of the plot any potential shadow that could be cast would be to the east and west. The road runs to the east of the site with a property set around 30m in this direction meaning no material harm should be cast in this regard. In addition to this, the west features glass houses and is therefore not habitable residential land. In any case, a shadow would only be cast when the sun rises and sets and this is naturally when the light levels are low and the sun is at its lowest points. As such, there is not considered to be any material overshadowing impact as a result of this replacement dwelling being constructed.

Due to the replacement dwelling proposing an additional first floor space there could be a potential increase in overlooking. Firstly, two dormer windows have been proposed on the front elevation as well as a large open glazed section. The dormer windows would be part of the first floor bedrooms and are therefore habitable rooms, these would face towards existing neighbouring properties and would not necessarily provide different views to the existing ground floor windows whilst it should also be noted that there is a large undeveloped plot which it would also look out onto. The glazing along the front elevation would also only be accessed through the landing which is not considered to be a habitable room. The rear dormers would also face out onto the glass houses and would therefore not overlook onto residential plots. It should also be noted that the central dormer would be used for en-suites for both upstairs bedrooms and should be obscure glazed as a result. As such, due to the reasons outlined above the proposed windows would not result in any material overlooking or loss of privacy following the construction of this replacement dwelling.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework (December 2024), and Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

Flood Risk and Drainage

Section 14 of the National Planning Policy Framework (December 2024) explains that "Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in

such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere".

This goes on to state, within Paragraph 172, that all plans "should apply a sequential, risk-based approach to the location of development - taking into account all sources of flood risk and the current and future impacts of climate change - so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by: a) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 173 of the National Planning Policy Framework (December 2024) goes on to state that "A sequential risk-based approach should also be taken to individual applications in areas known to be at risk now or in future from any form of flooding", by following the steps set out within Section 14 of the National Planning Policy Framework (December 2024).

Paragraph 174 goes on to state that, "Within this context the aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding", with the strategic flood risk assessment being the tool to demonstrate this.

Paragraph 175 details 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 site lies within Flood Zones 3 of the Environment Agency's Flood Maps. These have been created as a tool to raise awareness of flood risk with the public and partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan (2019) is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

It is worth noting that large parts of the district of South Holland lie within Flood Zone 3. It is therefore necessary to use the refined flood risk information (Hazard and Depth maps) within the South East Lincolnshire Strategic Flood Risk Assessment (2017) as a basis to apply the sequential test.

Whilst the site is within Flood Zone 3 of the Environment Agency's maps, it should be noted that it is within an area of no hazard and is outside any identified hazard zone within the SFRA. Paragraph 174 of the NPPF is explicit that the "strategic flood risk assessment will provide the basis for applying (the sequential) test." To this end, as the proposal is outside of any identified hazard zone, the proposal is considered to pass the sequential test. In any event, as the proposal would relate to a replacement dwelling fundamentally the proposal could not be located elsewhere.

Overall, when considering the development on balance, it is considered that given the mitigation measures detailed and recommended by condition, the proposal accords with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan (2019) and the intentions of the National Planning Policy Framework (December 2024) in this regard.

Highway Safety and Parking

Section 9 of the National Planning Policy Framework (December 2024) specifically relates to

'Promoting sustainable transport'. Paragraph 116 of the National Planning Policy Framework (December 2024) 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.

Further, Policy 36, to be read in conjunction with Appendix 6, of the South East Lincolnshire Local Plan (2019), 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.

No existing floor plans have been provided within this submission meaning the LPA are unaware of the number of bedrooms on site currently. In any case, it could be assumed that due to the size of the dwelling that there would be at least two bedrooms. The proposal would take this to three and therefore at least two vehicle parking spaces should be required. The driveway within the site provides enough off street parking to accord with Appendix 6 with the proposal being acceptable in this regard. Furthermore, LCC Highways have raised no objections to the proposal and have stated that there would be no harm to the highway.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3 and 36 the South East Lincolnshire Local Plan (2019), and Section 9 of the National Planning Policy Framework (December 2024).

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. This is often referred to as the mandatory requirements for Biodiversity Net Gain.

"Under the statutory framework for biodiversity net gain, subject to some exceptions, every grant of planning permission is deemed to have been granted subject to the condition that the biodiversity gain objective is met ("the biodiversity gain condition"). This objective is for development to deliver at least a 10% increase in biodiversity value relative to the pre-development biodiversity value of the onsite habitat. This increase can be achieved through onsite biodiversity gains, registered offsite biodiversity gains or statutory biodiversity credits".

The biodiversity gain condition is a pre-commencement condition. This relates to a condition that seeks, once planning permission has been granted, a Biodiversity Gain Plan that must be submitted and approved by the planning authority before commencement of the development, alongside the need to submit a Habitat Management and Monitoring Plan.

The effect of Paragraph 13 of Schedule 7A to the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

- (a) a Biodiversity Gain Plan has been submitted to the planning authority, and
- (b) the planning authority has approved the plan, or
- (c) the development is exempt from the biodiversity gain condition.

For applications that are submitted prior to the introduction of this requirement, the development would exempt from the mandatory 10% requirement and as such, the Biodiversity Gain Condition would not apply. However, this application was submitted following the introduction of this legislation. As such, unless comprising development that is exempt from this mandatory Biodiversity Net Gain (10%), a condition would be required, as mandatorily set.

When taking the above into account, the development in this instance is exempt from the statutory 10% Biodiversity Net Gain requirements.

The statement submitted within this application outlines that the proposal will occupy the same footprint as the existing dwelling and utilises the existing foundations and floor slabs with minimal extensions which themselves will occupy the existing paved areas. This statement also goes on to say that the occupants run a business growing flowers etc from land adjacent to the property which has a 'positive effect for birds and insects'. It should be noted that the business would be considered separate to the proposal and whilst it could provide benefits to wildlife, it would not accord to the BNG Exemptions. Alongside this, the LPA disagree with claims that it would be 'unfair' to require BNG to be provided 'given the nature of a fire damaged rebuild'.

In any case, it would appear that the dwelling sits mostly on an identical footprint to the existing building. There would be a minor extension to the rear and would also be an extension to the front which fills in an existing gap on this elevation. The floor space of both of these combined would sit at around 20.18sqm and therefore is less than 25sqm and would be exempt for this reason.

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 proposal represents appropriate development outside the defined settlement boundary and accords with the criteria outlined within Policy 22 despite its confliction with Policy 1 as a whole. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024) when viewed as a whole.

In this instance, there are no material considerations that weigh against the proposal and as such, the planning balance is in favour of the development.

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, 22, 28 and 36 (including Appendix 6) of the South East Lincolnshire Local Plan (2019), along with the identified sections contained within the National Planning Policy Framework (NPPF) (December 2024). 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.