

## DECISION DELEGATED TO HEAD OF PLANNING

**Application No:** H19-1174-25      **Applicant:** Mr P Wiffen  
**Proposal:** Proposed Pair of Semi Detached Houses  
**Location:** Land North Of 291 Broadgate Road Sutton St Edmund Spalding  
**Terminal Date:** 28th January 2026

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### Planning Policies

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

#### 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  
 Section 16 - Conserving and enhancing the historic environment

### 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	2	0
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	4	0	0	0

## **CASE OFFICER ASSESSMENT**

### **Proposal**

The proposal seeks full planning permission for a pair of semi-detached dwellings. The dwellings are proposed to feature a gable end roof form with symmetrical facades. Vehicular access is proposed from Broadgate Road, to the east of the site.

### **Site Description**

The site comprises land between 291 and 293 Broadgate Road, within Sutton St Edmund. The site forms part of the linear development that characterises the footprint of the village. Previously, there was a rounded steel framed barn, used for storage on the site. This building has been demolished at some point since 2022 and the site now appears to feature mostly scrubland and a small area of hardstanding.

293 Broadgate Road is located to the north of the site and comprises a detached dormer bungalow. 291 Broadgate Road is located to the south of the site and comprises a detached two storey dwelling. The nearest dwellings on the western side of Broadgate Road feature mock Tudor facades and brickwork.

The site is within defined settlement limits of Sutton St Edmund, as identified by the South East Lincolnshire Local Plan 2011-2036, and the accompanying policies map.

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

### **Planning History**

H19-0796-82: (Full Application) Erection of agricultural building - approved 22 October 1982

H19-0174-87: (Full Application) Conversion of disused farm building for use as storage facilities & light industrial use - approved 28 April 1987

H19-0451-89: (Reserved Matters) Erection of house and garage - approved 15 May 1989

H19-0167-21: (Outline Application) Proposed outline planning permission for 1 dwelling - approved 20 April 2021

H19-0417-22: (Reserved Matters) Erection of detached dwelling & car port - outline approval H19-0167-21 - approved 13 June 2022

Application submitted on land at 291 Broadgate Road (to the south of the site):

H19-1104-99: (Full Application) Siting of temporary mobile homes whilst building work is carried out. (Retrospective) - approved 29 March 2000

Application submitted on land at Lilac Farm (to the south of the site):

H19-0806-99: (Outline Application) Residential development - approved 05 October 1999

### **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.

Lincolnshire County Council - Historic Environment: The applicant has not provided an assessment of the archaeological or heritage potential of the site, as outlined in the NPPF (paragraph 207). The site is in an area of medieval archaeological potential. The historic environment record (HER)

confirms that the proposal lies within MLI20513 Medieval Settlement of Sutton St Edmund. The proposed development comprises 'Proposed Pair of Semi Detached Houses.' . The proposed development groundworks and any temporary works associated with the development (including landscaping, PV panels, drainage connections and BNG planting) will have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if present. As mentioned above, there is potential for development on this site to have an impact on buried remains that should be recorded prior to their destruction - NPPF (paragraph 218). There is archaeological potential, and we do not possess evidence that previous limited development activity truncated possible present heritage assets. I recommend that if permission is granted, there be an archaeological condition for a mitigation strategy to effectively deal with this site. This will comprise a phased approach of archaeological investigation and mitigation work. This will initially comprise but may not be limited to a trial trench evaluation of the site which should aim to determine the presence, absence, significance, depth and character of any archaeological remains which could be impacted by the proposed development as noted above and to inform a programme of further archaeological mitigation work which may be required if archaeological remains are identified in the evaluation. This will enable any remaining archaeology which currently survives on this site to be properly assessed and recorded prior to their alteration or destruction. This should be secured by South Holland District Council's standard conditions AR01, 02, 03 and 05. This is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29).

North Level Internal Drainage Board: No objections. Soakaways are indicated as the preferred method of surface water disposal. It needs to be shown that soakaway drainage would be effective in the plot layout.

Ecology Officer: There has been sufficient evidence provided to determine this application, as long as the mandatory 10% net gain is achieved through securing offsite units pre-commencement. A Biodiversity Gain Plan and updated BNG metric will be required pre-commencement. We will also require detailed maps indicating the proposed locations of the requested bird and bat boxes.

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

We request that least 2 integrated universal nest bricks are incorporated into the external fabric of the buildings. These should be located at a height of 4+ m metres, on the north or east elevations to avoid overheating, and grouped colonially where possible, in accordance with best-practice guidance such as British Standard BS 42021:2022. The bricks must be installed during the construction phase and retained thereafter for the lifetime of the development. We also request that one integrated bat box (e.g., Integrated / Built-In Bat Boxes, Integrated Eco Bat Box | The Nestbox Company) is added to the development. These are required to enhance biodiversity and meet Local Plan Policy 7.2.14. In both cases, the authority requires the applicant to submit sufficiently detailed maps that indicate the proposed location of bird/bat boxes on-site.

Lincolnshire County Council - Highways and SUDS: A shared access should be a minimum of 4.1m wide. At the highway boundary the height of the proposed fence shall not exceed 0.6m so as not to obscure the visibility splay. The Access note is to read to Lincolnshire County Councils specification.

Environmental Protection - Land Contamination: No comments regarding land contamination.

Environmental Protection: No comments.

Sutton St Edmund Parish Council: No response received.

Cllr L J Eldridge: 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, 6 representations have been received from members of the public; however, 2 of these representations were from the same household. The key matters set out within the responses are summarised below:

#### General Matters:

- Concerns with an increase in traffic.
- 2 dwellings would increase the burden on the electricity supply to the area resulting in power cuts.
- Concerns regarding an increase in noise.
- The switch from a detached dwelling (as was proposed under application H19-0417-22) compared with the proposal for semi-detached dwellings would be out of keeping with the area.
- The proposed wall materials and finishes, including Flemish Antique brick, are not in keeping with the prevailing mock Tudor character of neighbouring properties on either side of the site, resulting in harm to the character and appearance of the area.

#### Drainage:

- Given the heavy clay, compacted ground and limited garden sizes, reliance on soakaways is highly questionable and permeability testing should be provided to demonstrate that soakaways are feasible.
- The plans show a treatment plant located within the front garden of Plot 2, together with a soakaway. Soakaways are intended for surface water only and are not suitable for effluent discharge.
- The development could increase water runoff to neighbouring properties.
- A major North Level Drainage Board (NLDB) underground drainage channel lies within approximately 7 metres of the proposed development. This is not shown on the submitted plans, and the development could prevent access to this channel. The NLDB should be consulted.
- There is an outbuilding adjacent to the Plot 1 boundary. This further reduces the available land for effective drainage and increases the risk that runoff could be displaced towards the property to the north.
- The Flood Risk Assessment recommends finished floor levels approximately 0.3m above surrounding ground levels. If the proposed dwellings are required to be constructed above the highest point of the road to mitigate flood risk, the resulting damp proof course level of the new development would be approximately 525mm higher than the property to the north. This materially increases the likelihood of surface water displacement towards 293 Broadgate Road during extreme rainfall events.
- The application documentation states that it is "unknown" whether the development will connect to an existing drainage system. This level of uncertainty is inappropriate for a constrained site with known drainage and groundwater issues and fails to demonstrate that flood risk can be safely managed.
- The FRA recommends raised finished floor levels, indicating the development will sit higher than neighbouring properties, including 293 Broadgate Road, increasing the risk of surface water displacement onto adjacent land.

#### Ownership Boundary Queries:

- The delineation of the boundary between 293 Broadgate Road and the application site is incorrect. The submitted plans show incorrect boundary positions between 291 and 293 Broadgate Road. As the red line boundary is incorrect, this renders the application invalid.
- There is a 300mm strip of land between the neighbouring wall and the boundary for maintenance purposes.
- the sealed pathway on the north side of Plot 1 runs directly up to the wall of the neighbouring property, with no soft landscaping or drainage margin to intercept runoff. This increases the risk of water tracking along and into the wall.
- The garage to 291 Broadgate Road is also shown on the plans as extending to the boundary, which is incorrect and can be readily confirmed by a site visit.

The above refenced red line boundary matter was queried with the applicant's agent who subsequently provided the site title plan to show that the red line boundary was accurate. As such, the LPA was satisfied that the red line boundary was acceptable and that the correct ownership certificate had been completed. Notwithstanding this, the red line boundary has been reduced slightly along the northern edge of the site to show land retained for maintenance purposes for the neighbouring dwelling.

#### 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 and Visual Impact;
- Impact on Amenity;
- Impact on Archaeological Assets;
- Highway Safety and Parking;
- Flood Risk; and
- Biodiversity Net Gain.

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 within the defined settlement of Sutton St Edmund which falls under the category 'Other Service Centres and Settlements'. Policy 1 sets out that within this type of settlement, development will be permitted that supports their role as a service centre for the settlement itself, helps sustain existing facilities or helps meet the service needs of other local communities. Development will normally be limited to Committed sites and infill. As the proposal is for two dwellings within a defined settlement, the principle of development is acceptable.

Furthermore, approval has previously been granted for at least one dwelling within the site, mostly recently under outline permission H19-0167-21 in 2021, and the subsequent reserved matters approval H19-0417-22 in 2022. Whilst no longer extant as it appears that the development has not been implemented, these approvals form a material consideration in the determination of the current application.

#### Visual and Amenity 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. Paragraph 135 also 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.

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 accords with the provisions of Section 12 of the NPPF, requiring development to feature 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.

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

The street scene along Broadgate Road varies as there is a mixture of dwelling types and plot layouts. Generally, on the western side of the road, the dwellings are mostly detached and are set back from the road frontage at various distances. There are some semi-detached dwellings located on the eastern side of the Broadgate Road, to the north-east of the site. The nearby material palette of the buildings also varies greatly, including a mixture of brick types, render and cladding.

The proposal is for two semi-detached dwellings. The dwellings are proposed to feature symmetrical front elevations, including a gable end roof line, front porches and brickwork facades. Combined, the dwellings would measure 12m by 9.6m, measuring 8m in height up to the ridgeline. The dwellings are proposed to be set back from the road frontage at a similar distance as 293 Broadgate Road, which is to the north of the site. 291 Broadgate Road is the closest dwelling located to the south, and this dwelling is set back further from the road frontage than the dwellings would be within the site.

There is no uniform building line within the street scene, nor is there is a strict sense of uniformity, particularly to the west of Broadgate Road as the dwellings are set back from the road frontage at various distances. The dwellings also feature various styles, materials and plot layouts. Many of the nearest dwellings are detached; however, there are various semi-detached dwellings located to the north-east of the site, on the opposite side of Broadgate Road.

Whilst the proposed siting of semi-detached dwellings within the site would contrast with the nearest detached dwellings, it is not considered that this would result in a significant detrimental impact on the street scene. For example, it is acknowledged that the siting of the dwelling that was approved under reserved matters approval H19-0417-22 was similar to the building footprint that is proposed under the current application. The dwelling that was approved under the reserved matters approval featured a gable end roof form and a relatively symmetrical front elevation, therefore, sharing some similar characteristics with the current proposals.

Whilst the proposal would result in the provision of 2 dwellings instead of a single dwelling, it is not considered that this would result in an overly cramped form of development. Both dwellings would be provided with sufficient internal living space and external amenity space. For example, both dwellings would accord with the nationally described space standard. The rear gardens are also considered to offer a suitable amount of external amenity space, with each featuring approximately 95sqm of land and a garden depth of approximately 10.5m. There are no dwellings located to the rear of the site and as such, the proposal would not result in an unacceptable degree of overlooking with any occupants to the west of the site.

One first floor window is proposed on each of the side elevations; however, these windows connect to bathrooms which are not habitable rooms. Whilst these windows should not cause an unacceptable degree of overlooking as they would not be connected to habitable rooms, it is considered appropriate to include a condition requiring the windows to be obscure glazed in the interests of maintaining privacy with neighbouring dwellings. Therefore, it is not considered that the proposals would result in an adverse degree of overlooking or overshadowing due to the scale and siting of the dwellings within the site.

The proposed materials are similar to the materials that were allowed under the reserved matters approval. The materials include Flemish Antique facing brick and Marley Anglia Old English red roof tiles. Whilst the nearest dwellings feature mock Tudor style elevations with brickwork on the lower part of the buildings, within the wider area there is a large amount of variance in terms of the material palette. As such, it is considered that the proposed materials are acceptable in this instance.

Some planting is proposed within the site in the form of a hedgerow near the site frontage. A 1.8m high close boarded fence is proposed to enclose the rear of the plots within the site, with 1.2m high fencing towards the front of the site and the fencing towards the font of the site shall not exceed 0.6m in height. The boundary treatments are considered to be acceptable.

Overall, the visual and amenity impact of the development is acceptable in accordance with Policies 2 and 3 of the Local Plan, and Sections 12 and 16 of the NPPF.

### Impact on Archaeological Assets

Section 16 of the NPPF contains guidance as to how LPAs should assess proposals that could affect designated and non-designated heritage. For example, Paragraph 207 of the NPPF sets out the following:

"Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation."

Paragraph 218 of the NPPF sets out the following:

"Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible. However, the record evidence of our past should not be a factor in deciding whether such loss should be permitted."

Part C of Policy 29 of the Local Plan sets out the requirements for proposals that might affect area with archaeological potential. For example, Part C.1 requires proposals that affect archaeological remains, whether known or potential, designated or non-designated, to take every reasonable step to protect and, where possible, enhance their significance.

As set out previously, Lincolnshire County Council's (LCC) Historic Environment Team note that the applicant has not provided an archaeological assessment of the site; however, the team consider that the site contains archaeological potential. The team have recommended conditions to secure further archaeological investigation and as two of these conditions need to be discharged prior to the commencement of development, these conditions have been agreed with the applicant's agent. With the inclusion of the recommended conditions, it is considered that the proposal is suitably mitigated to allow for an investigation and recording of any archaeological assets within the site, in accordance with Policy 29 of the Local Plan and Section 16 of the NPPF.

### 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 details that development proposals will demonstrate how accessibility by a choice of travel modes including the provision of public transport, public rights of way and cycle ways will be secured, where they are relevant to the proposal.

Policy 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.

Vehicular access is proposed from Broadgate Road which is to the east of the site. 6 parking spaces are proposed towards the front of the site to serve the dwellings. Initially the width of the access was proposed to be 3.5m wide; however, this has been widened to 4.1m as this was recommended by LCC's Highways Team. The Team also recommended that the height of any fencing / hedgerow along the site frontage should not exceed 0.6m in height. As such, it would be appropriate to include a condition requiring the proposed hedgerow and any fencing to be

maintained at a height of no more than 0.6m. A note has also been added to the site plan to clarify that any fencing within the visibility splays will be not taller than 0.6m.

Therefore, the proposal would have an acceptable impact in terms of highway safety in accordance with Local Plan Policies 2, 3 and 36, 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 2 of the Local Plan requires proposals to meet sustainable development considerations including in relation to sustainable drainage and flood risk (part 7).

Policy 4 of the Local Plan requires proposals in Flood Zones 2 and 3 to be supported by sufficient information relating to flood risks associated with the development.

The site lies within Flood Zone 3, as identified within the Environment Agency's Flood Maps. Policy 4 of the Local Plan sets out that development in Flood Zones 2 and 3 will 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. Therefore, the 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 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."*

In this case, the submitted Flood Risk Assessment (FRA) does not contain a site search exercise and as such, the FRA is considered to be insufficiently detailed. Notwithstanding this, it is recognised that the vast majority of the surrounding area around Sutton St Edmund is located within Flood Zone 3. Furthermore, the settlement boundary is drawn tightly around Holbeach St Marks and it is not considered that there are any sequentially preferable sites in flood risk terms. As such, it is considered that the sequential test is passed.

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 development would make a contribution to local housing supply which could benefit the community as future occupants could help sustain local services and facilities. National Planning Guidance sets out that examples of wider sustainability benefits can include the re-use of brownfield land and the provision of sustainable drainage systems (Paragraph: 036 Reference ID: 7-036-20220825). The submitted site plan indicates that the proposed means of surface water drainage is via soakaways. It is unclear if this is feasible at this stage due to the lack of submitted

information. Therefore, it would be appropriate to include a condition requiring further drainage details to be provided. 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.

In terms of part b, 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'. 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. 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 not within a hazard rating area and as such, the SFRA does not recommend any specific mitigation for minor residential development. Notwithstanding this, the submitted FRA recommends that the finished floor levels of the dwellings are set 0.3m above the surrounding ground level and that 0.3m of flood resilient construction is included above the finished floor levels. As such, it would appropriate to secure the implementation of these measures via a planning condition.

One of the public representations raises concerns that the North Level Drainage Board should be consulted on the proposals as the Board has assets within the site. The Board have been consulted and have not raised objections to the proposals; however, the Board have set out that it needs to be demonstrated that soakaway drainage would be effective within the plot layout. As set out previously, it is considered appropriate to secure further details related to the proposed soakaways to ensure they are feasible via a planning condition.

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, 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 metric calculation and an Ecology Report, prepared by Wild Frontier Ecology. The LPA's ecology officer has reviewed the submitted information and has not raised any objections to the proposals; however, planning conditions have been recommended.

Whilst it is not considered that there are any protected species within the site, conditions are recommended to restrict clearance works during the nesting season (March to August) and to require the installation of bird nesting bricks and a bat nesting box, in accordance with Policy 28 of the Local Plan. The plans have been updated during the determination of the application to add the relevant bricks and nesting box. Furthermore, a planning condition is required to provide BNG, which in this case is only able to be delivered off-site. The applicant's agent has agreed to this condition as the condition needs to be discharged prior to the commencement of development.

## Planning Balance

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, states that the determination must be made in accordance with the development plan unless material considerations indicate otherwise.

The development hereby proposed does not materially harm the character or appearance of the locality or the amenity of residents given that there are no dwellings next to the site. The proposed development is considered to accord with the Local Plan and the provisions of the NPPF 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 accord with Policies 1, 2, 3, 4, 10, 11, 28, 29, 30 and 36 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.