

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H20-0513-25 **Applicant:** L Dodd, A Merchant & P Roffe

Proposal: Erection of 3 Self-Build Detached Dwellings & Garages

Location: Land North Of 35 Jarvis Gate Sutton St James Spalding

Terminal Date: 24th July 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
- 33 Delivering a More Sustainable Transport Network
- 36 Vehicle and Cycle Parking
- APPENDIX 6 Parking Standards

National Guidance

National Planning Policy Framework December 2024

- Section 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	1	0	0	0

WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	4	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks outline planning permission for the erection of three self-build detached dwellings and garages. Consent is sought for the proposed accesses from Jarvis Gate. One of the accesses is proposed for the three dwellings and the other access is proposed for the paddock area to the rear of the site. All other matters are reserved.

Site Description

The application site is located to the south-west of Jarvis Gate, on the northern edge of Sutton St James. The site comprises a grassed paddock area. There are watercourses on the north-western and south-easter boundaries of the site

The site is located outside, though next to the settlement boundary of Sutton St James, as identified by the South East Lincolnshire Local Plan and the accompanying policies map.

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

Relevant Planning History

H20-0553-20: (Outline Application) Residential Development - 3 plots including accesses and field access - refused 09 September 2020 - appeal dismissed 05 July 2021

Consultation Responses

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

South Holland Internal Drainage Board: The applicant has indicated that they intend to dispose of surface water via infiltration (soakaways), 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. I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change

to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the northern site boundary and that works are proposed to alter this watercourse including the installation of a new access for the proposed paddock and the widening of an existing access to facilitate the site entrance as shown in the drawing SITE PLAN - PROPOSED LOCATION PLAN '4350- 24 01 Rev A' (G.R. Merchant, April 2025). To enable this proposal consent is required under Section 23 of the Land Drainage Act 1991 (and byelaw 4) and I recommend that the applicant contacts this office to make an application for this consent at their earliest convenience.

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Environmental Protection: No comments regarding land contamination or environmental protection.

Sutton St James Parish Council: As with the previous application (H20-0553-20) the planned development still sits outside the village planning boundary line something which the parish council worries would set a precedent for future developments. Also with pre-existing kennel blocks next door worry about potential future complaints. If the application is minded to be approved the Parish Council would like to see bungalows built to reduce the potential impact on the layout of the road.

Lincolnshire County Council - Historic Environment Team: The applicant has not provided an assessment of the historic environment potential of the site, as outlined in the NPPF (paragraph 207). The Historic Environment Record (HER) confirms that this site lies within a fenland area extensively settled during the later prehistoric and Roman periods. Cropmarks indicate the presence of prehistoric or Roman settlements both to the north and south of the present village (MLI22317 - RB Settlement, Horsemoor Drove; MLI22316 - RB Settlement, Bird's Drove; MLI22318 - RB Settlement, Taylor's Drove). It is therefore likely that archaeology of a similar nature could survive within the site, although no site-specific evidence is currently available. The proposed development groundworks and any temporary works associated with the development 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). We recommend that if permission is granted, there should 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 geophysical survey, geoarchaeological assessment and archaeological 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 and 03 and is in accordance with National Planning Policy Framework paragraphs 207 and 218 and the South East Lincolnshire Local Plan (Policy 29).

Lincolnshire County Council - Highways and SUDS: I understand that this is an Outline Planning Application with all matters reserved except for access for the proposed development of three dwellings and a new field access to land North of 35 Jarvis Gate, Sutton St James as shown on Drawing Number: 4350-21-01, dated April 2025, albeit indicative only. The Highway Authority are of concern with all three plots being accessed from the existing field access, as vehicles would have to take unsafe manoeuvres by cutting across Jarvis's Gate/Broadgate junction when travelling in the direction from the North. Additionally, those travelling from the South to turn into the proposed access, may be conflicting with those travelling behind, assuming they will be turning left to continue travelling along Jarvis's Gate, which would be unacceptable in terms of highway safety. Therefore, we would ask the applicant to make further consideration of relocating the access to serve the proposed three dwellings further South away from the junction whilst still achieving suitable visibility splays in accordance with Manual for Streets. The applicant should also be made aware at this stage, that the proposed footway connection narrows significantly at the Northern boundary line of no. 35 Jarvis's Gate which would not meet the required dimensions of a footway with this Authority. To achieve this, the carriageway of Jarvis's Gate would need to be widened on the opposite side to a suitable width and length to accommodate the new footway, providing safe and suitable pedestrian access. The applicant should also be aware that there will be a requirement of land

dedication to this Authority for the proposed frontage footway in front of plots 1-3, as shown on the layout drawing.

Ecology Officer: 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, six letters of representation have been received. Matters raised within the responses are summarised below:

- The application was previously refused.
- The development could result in further development on surrounding land in future.
- Jarvis Gate and the junction with Broad Gate is dangerous.
- The site is outside the settlement boundary.
- Concerns over future complaints due to the position of a kennel block next to the site.
- If the application is approved, bungalows should be provided to reduce the impact on the layout of the road.
- The dwellings would be out of place on the edge of the village.
- No social or affordable housing is proposed.

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 2023 (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 and Drainage;
- Heritage Assets and Archaeology; and
- Biodiversity.

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.

Sutton St James is identified as a Minor Service Centre. Policy 1 sets out that within these types of settlements, 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 Allocated and Committed sites and infill.

In this case, the site is outside the settlement boundary of Sutton St James and as such the site is within the countryside in planning policy terms. The purpose of defining settlement boundaries is to provide a degree of certainty to the community and to developers about where the most sustainable locations for new development will be promoted, in line with Policy 1, whilst also ensuring that development is appropriately steered towards sustainable locations. The countryside is at the bottom of the settlement hierarchy, in the least sustainable location in the settlement hierarchy. More sustainable locations at the top of the hierarchy have the widest choice of sustainable travel modes. In contrast, within the countryside, less sustainable means of transport are available and residents largely dependent on their own vehicles for transport or sporadic bus services.

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.

Paragraph 11 of the NPPF states that decisions should apply a presumption in favour of sustainable development and for decision taking this means:

"c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for refusing the development proposed; or

ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination."

Footnote 8 clarifies that this "includes, for applications involving the provision of housing, situations where: the local planning authority cannot demonstrate a five year supply of deliverable housing sites".

According to South Holland District Council's (SHDC) 5-Year Housing Land Supply Assessment (5YHLS) (June 2025), SHDC can demonstrate 5.5 years of housing land supply. Furthermore, SHDC have scored at least 162% for the Housing Delivery Test over the last three years (Paragraph 1.4 of the 5YHLS Assessment). In accordance with Paragraph 232 of the NPPF, it is therefore not necessary to apply the tilted balance in favour of sustainable development in the determination of the current application.

Previous planning decisions are a material consideration in the determination of planning applications. As previously referenced, an outline application for three dwellings was previously refused on 09 September 2020 (reference: H20-0553-20). An appeal was subsequently submitted and dismissed (PINS ref: 3269707) as the inspector considered that the proposal would result in an unacceptable impact on the character and appearance of the area, the site did not represent a suitable location for development that would be in accordance with the spatial hierarchy, and the proposal would have an unacceptable amenity impact on future occupiers due to the location of a kennel block to the south of the site.

A similar indicative layout was shown within the refused scheme. The main differences include the provision of three vehicular accesses rather than two accesses, an extension to the footpath was not proposed as is proposed under the current proposals, and the dwellings were not proposed to be self-build dwellings.

Returning to the assessment of the proposals against Policy 1, it is necessary to consider whether the proposals are necessary for the location. It is also necessary to consider whether the proposals meet the sustainable development needs of the area in terms of economic, community or environmental benefits that would arise from the proposals. These matters are considered below:

-Economic: In economic terms, the construction of three dwellings could provide some short term benefits in terms of construction employment. The proposals could result in longer-term benefits such as spending from occupants on local services and facilities as Sutton St James. The applicant has not identified any other economic benefits that could be delivered as a result of the proposals. These 'benefits' are limited and, in addition, are not benefits beyond those that could be attributed to development within more sustainable and appropriate locations.

-Community: In community terms, three dwellings would provide a minor contribution to the district's housing supply, albeit in one of the less sustainable locations for development within South Holland. The proposal is for self-build dwellings, which make an important contribution to the area's housing supply. No affordable housing is proposed as the development would not meet the affordable housing threshold. A footpath extension is proposed within the site in order to connect the proposed dwellings with the rest of Sutton St James. This footpath would likely only benefit the proposed occupants rather than the local community as there is no footpath on the roads to the north and north-east of the site. The applicant has not identified any other community benefits that could be delivered as a result of the proposals.

-Environmental: In environmental terms, the proposal would not provide a net gain in biodiversity as the applicant considers that the proposal would be exempt as the dwellings are proposed to be self-build dwellings. As the application is in outline form only, it is unclear if any planting or landscaping is proposed. As such, any environmental benefits are unclear. The planning inspector for the previously referenced dismissed appeal within the site considered that the harm to the character and appearance of the area would result in environmental harm which would in itself be sufficient to render the development contrary to Policy 2 of the Local Plan (Paragraph 15 of the appeal decision).

The proposed development would therefore result in limited benefits. There is no explanation within the submitted documents as to why the proposed houses could not be accommodated elsewhere in the district in accordance with the spatial strategy.

The submitted planning statement (4350-24) sets out the following:

"The application site is outside the settlement boundary but is located along the line of the boundary and is classed as an infill site within the centre of two other service centres and settlements."

The site is not considered to comprise an infill site given that there is no development immediately to the north. Furthermore, Policy 1 makes no reference to infill sites in the countryside. Within the supporting text for Policy 1, Paragraph 5.3.5 sets out that there will be opportunities for infill self-build development within defined settlement boundaries.

Within the planning statement, reference is made to three planning permissions within South Holland for self-build dwellings that have been approved outside of settlement boundaries. No details of the permissions have been provided to assist with making a meaningful comparison between these permissions and the current site. Furthermore, each site is considered on its individual merits and assessments are made based on the individual circumstances of each individual site and the policy situation at the time of determination. Although some self-build dwellings have been approved on land outside settlement boundaries elsewhere, this does not automatically justify the proposal for self build dwellings within the current site.

Notwithstanding this, the other referenced permissions have been reviewed. It is considered that these dwellings and their sites represent different circumstances to the current site. For example, all of the decisions referenced (H23-0797-23, H23-0247-24 and H22-0984-23) related to small scale sites located between existing buildings. As such, these sites were considered to represent infill development.

Limited weight is attached to the provision of self-build dwellings in this location. Explanatory text accompanying Policy 11 (Distribution of New Housing) of the South East Lincolnshire Local Plan specifically refers to self-build & custom build dwellings and indicates at paragraph 5.3.5 the following:

"Within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met".

This latter point is particularly pertinent as it makes clear that permission should only be granted for such sites where there are no material considerations set out within the Local Plan that indicate otherwise. Similarly, an Inspector concluded in a recent appeal decision (APP/A2525/W/18/3218958) within South Holland that despite giving the statutory requirement regarding self-build and custom-build significant weight, the appeal site was not a suitable location for that type of housing. This demonstrates the above point in practice. More recently, appeal decision APP/A2525/W/25/3359058, further explores this, attaching 'very limited weight', through referring to the aforementioned paragraph 5.3.5 of the supporting text to SELLP Policy 11. Likewise, this appeal decision also detailed that "Policy 1 makes no reference to infill sites in the countryside. Moreover, no substantive details of any of these permissions have been provided so I am unable to make a meaningful comparison between these permissions and the appeal scheme before me. Overall, I attach very limited weight to the provision of a self-build property and its respective benefits".

The site is not within a settlement boundary, and it would not comprise a rural exception site through the provision of affordable housing. The proposed development would not be in a sustainable location, having regard to its countryside location. Significant harm would be caused as a result, as conflict would arise with Policies 1, 11, 17 and 19 of the Local Plan, which seek to direct housing development in accordance with the settlement hierarchy, concentrating on the most sustainable settlements to enable access to everyday facilities and services. The principle of development is therefore not supported in this case.

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.

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, 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 application seeks outline consent for three dwellings. The proposed scale, appearance, layout and landscaping are unknown at this stage. The indicative layout shows the proposed dwellings set back from the road frontage facing towards Jarvis Gate.

The site is part of an open grass field which fronts onto Jarvis gate at its junction with Broad Gate. To the south of the site, there is a detached bungalow, 35 Jarvis Gate. A mature hedge forms a boundary between the site and 35 Jarvis Gate. To the north and west of the site there are agricultural fields, beyond which there is some sporadic development. The south-western boundary would abut the open field and the indicative plan indicates a 2.4m high acoustic fence along part of the south-western and south-eastern boundaries. The two other boundaries are formed by ditches, shrubs and trees. To the east of the site, on the opposite side of Jarvis Gate, there is a building of agricultural / industrial appearance set back from the road. This building is largely screened from view by hedgerows and landscaping.

35 Jarvis Gate and 38 Jarvis Gate mark the commencement of the built-up area of Sutton St James. By contrast, the site has rural and verdant character, given that it is undeveloped and relatively open except for the aforementioned boundary vegetation.

The proposed dwellings and vehicular access would urbanise the character and appearance of the site. The inspector for the appeal within the site considered that the development would harmfully jar with the rural character of the site and its immediate environment. As set out previously, the

current proposals are similar to the previous proposals and the site and the surrounding area have not changed significantly since the appeal was determined. It is considered that the proposed urbanisation of the site through the provision of three dwellings, and the associated driveways and residential paraphernalia would significantly harm the rural character and appearance of the site and the surrounding area. This harm would be highly visible from the area given the site's prominent location next to one of the entrances to the village.

The proposed development would therefore not accord with Policies 2 and 3 of the Local Plan as these policies seek to ensure that the design of all development is appropriate to the character and quality of the area. The policies also seek to ensure that proposals demonstrate how they would respect the character and appearance of an area, and the relationship to existing development and land uses. The proposal would also conflict with paragraph 127 of the Framework, which states that planning policies and decisions should add to the overall quality of the area and be sympathetic to local character and history, including the surrounding built environment and landscape setting. The proposed development is also considered to be contrary to Paragraph 135 of the NPPF, which seeks to ensure that proposals are suitably designed and respond sympathetically to the area within which they are located.

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.

Policy 30 of the Local Plan sets out that proposal will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon the health and safety of the public, the amenities of the area, or noise levels.

The application seeks outline consent with all matters reserved except for the two proposed vehicular accesses from Jarvis Gate. As such, the proposed layout of the three dwellings is not yet confirmed. It is however considered that the site contains enough space to accommodate three dwellings which could contain enough living space for future occupants.

35 Jarvis Gate is the nearest dwelling to the site and there is a shared boundary between the application site and 35 Jarvis Gate. It is considered that the site could accommodate a layout that maintains a suitable separation distance between the nearest elevation of 35 Jarvis Gate and the proposed dwellings. The placement of windows along the side elevations of the proposed dwellings would however need to be carefully considered to reduce the potential for overlooking.

Application H20-0553-20 was partly refused on amenity grounds. Within the subsequent appeal decision previously referenced, the inspector acknowledged that 35 Jarvis Gate has planning permission for a domestic kennel block to accommodate up to six dogs (H20-0324-90). The inspector noted that whilst there was no evidence of any previous complaint from neighbours regarding dog noise, the proposal would be in closer proximity to the source of noise (Paragraph 19). The inspector considered that "Dog barking is likely to be intermittent and could be generated at any time. Intermittent, or sudden noise is more likely to disturb residents in their gardens or sleeping than general background noise" (Paragraph 19). The inspector did not consider that there was sufficient evidence to confirm that future occupiers would not be subject to unacceptable noise and disturbance as a result of the proximity to the kennels (Paragraph 20).

For the current application, a representation has been received from the occupants of 35 Jarvis Gate confirmed that the kennels have been in place and in use for the past 25 years. The indicative site layout shows a 2.4m acoustic fence along part of the south-western and south-eastern boundaries. It is not clear if this would provide sufficient mitigation to protect future occupants from noise disturbance and the fencing is indicative only. The council's environmental protection team have not raised any objections to the proposals based on noise disturbance. The proposed fencing is not considered to be a sympathetic boundary treatment.

It is therefore unclear if the proposal would provide suitable living conditions for future occupiers. The proposed development is, therefore, contrary to Policies 3 and 30 of the Local Plan which,

amongst other things, requires that development should not adversely affect residential amenity or health. The proposed development is also considered to be contrary to Paragraph 187(e) of the NPPF which seeks to prevent new development from being put at unacceptable risk from noise pollution.

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 33 further reinforces the need for developments to be accessible via sustainable modes of transport.

Policy 36 of the Local Plan, in conjunction with Appendix 6, sets out minimum vehicle parking standards.

The indicative site layout shows one vehicular access for the proposed three dwellings from Jarvis Gate. This access is proposed to extend into the site through the provision of a private driveway. A separate vehicular access is proposed for the paddock area towards the rear of the site.

Lincolnshire County Council's (LCC) highways team have set out that concerns with the proposed accesses. The team are concerned with all three of the dwellings being accesses from the existing field access, as vehicles would have to take unsafe manoeuvres by cutting across the Jarvis Gate and Broad Gate junction when travelling in the direction from the north. The team has asked for the applicant to consider relocating the access which would serve the three dwellings further to the south, to increase the distance between the access and the junction whilst still achieving suitable visibility splays in accordance with Manual for Streets.

The team have also set out that the proposed footway connection is too narrow near the north-eastern corner of the site and this part of the footpath would not meet the required dimensions of a footway with LCC. It should also be noted that the footpath is proposed to be extend on land that is not within the applicant's ownership and is outside the red line boundary. There is no existing footpath next to 35 Jarvis Gate and the site. Therefore, most of the footpath that is shown indicatively within the red line boundary would not connect to an existing footpath. This reduces the potential connectivity of the site and further undermines the sustainability of the site through the lack of provision for occupants to walk to local services.

The applicant has attempted to submit an amended plan to show a relocated vehicular access. This plan has not been accepted as the red line boundary is altered within the plan. A period of re-consultation would have been required to advertise this change and this was not considered to be appropriate in this case.

The proposed development would not be provided with a suitable and safe vehicular access. Furthermore, the proposal would not be provided with a suitable footpath connection and as such, the accessibility of the site by pedestrians would not be accommodated. The proposed development would therefore be contrary to Policies 2, 3, 33 and 36 of the Local Plan, and Paragraph 116 of the NPPF in terms of highway safety.

Flood Risk and Drainage

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. Paragraph 170 sets out that inappropriate development in areas at risk from 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

flooding elsewhere.

The site lies within Flood Zone 3, as identified by the Environment Agency's flood risk maps. Policy 4 of the Local Plan sets out that development within Flood Zone 3 will be permitted in instances where specific criteria is met.

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites.

The proposed development is classed as a 'more vulnerable' use, according to Annex 3 of the NPPF. The proposed development is therefore required to pass the sequential and exception tests. The application is accompanied by a Flood Risk Assessment (FRA), which contains sections relating to how the applicant considers that the proposed development passes the sequential and exception tests.

The NPPF requires the application of a sequential test to ensure that new development is located 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. It is not considered that there are any site-specific reasons as to why the proposed dwellings need to be located within Sutton St James as opposed to another settlement. The submitted FRA does not contain a site search exercise to demonstrate if other sites have been considered and discounted. Pages 3 and 4 of the submitted FRA sets out how the applicant considers that the sequential test has been addressed. The section is brief, setting out that the "The greater part of the area around Sutton St James, as can be seen from the map on page 2 of this report, is in Flood Zone 3. Therefore, it would be difficult to find a similar site for development that is in a lower flood zone". No evidence is presented to demonstrate that this is the case. It is therefore considered that the sequential test has not been addressed.

Whilst it is recognised that large parts of South Holland are located within Flood Zone 3, there is nonetheless a requirement to demonstrate that the sequential test has been addressed and passed. This is not considered to be the case in this instance. Having reviewed online sources to check for land that is for sale, the LPA consider that there are other sites which are comparable with the application site, and which are available within lower risk flood areas. For example, a site was found for sale comprising 1696sqm of land was found in Gosberton off Baker's Yard which is within Flood Zone 1; albeit, this search is a necessity of the applicant in respect of the sequential test.

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."

The proposed development would provide a minor contribution to the area's housing land supply, and this is afforded limited weight, as set out previously within the principle of development section of this assessment.

In terms of whether the proposed development is safe, within the SFRA, the site is identified within a 'low' hazard area. For minor residential proposals such as the proposed development, the SFRA recommends that the finished floor levels of two storey dwellings should be set 300mm above the ground level, and for single storey proposals above the 0.1% event breach depth in the 2115 scenario.

The submitted FRA sets out the ground floor level of the proposed dwellings should be a minimum of 300mm above the ground level. The FRA also sets out that the dwellings in the areas where ground levels are below 1.70m OD should be raised to a minimum level of 2.00m OD. The site is within a 'low' hazard area as identified by the SFRA. The recommendations within the FRA accord with the guidance within the SFRA for dwellings within low hazard areas. The SFRA also sets out that single storey proposals must set finished floor levels above the 0.1% event breach depth in the 2115 scenario. This is not set out as mitigation within the FRA. As it is not yet known whether the proposed dwellings would contain one or more storeys, it would be necessary to secure this

mitigation via a condition.

Surface water is proposed to be discharged via soakaways. This is acceptable in principle as this includes a sustainable form of drainage, however, no details have been provided to demonstrate the feasibility of the proposed drainage strategy. As such, it would be appropriate to include a condition requiring details of the soakaways if approval is granted.

The applicant has therefore failed to demonstrate if the proposed development could be accommodated within a more sustainable location with a lower risk flood rating. It is therefore considered that the proposed development has not passed the sequential test and would therefore conflict with Policy 4 of the Local Plan, and Section 14 of the NPPF, specifically Paragraphs 172 to 175.

Heritage Assets and Archaeology

Section 16 of the NPPF sets out guidance relating to how local authorities should assess and determine applications which could affect designated and non-designated heritage assets.

Paragraph 207 of the NPPF sets out that 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.

Policy 29 of the Local Plan sets out that the historic environment within South East Lincolnshire will be conserved and where appropriate enhanced. Part C of the policy relates to archaeology and scheduled monuments.

Lincolnshire County Council's Historic Environment team have set out that the site is within an area fenland area extensively settled during the later prehistoric and Roman periods. Cropmarks indicate the presence of prehistoric or Roman settlements both to the north and south of the present village. The team therefore consider that it is likely that previously unrecorded archaeology of a similar nature could exist on this site at the foot of the bank.

The proposed development and any temporary works associated with the development could have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if present. The Historic Environment Team have therefore recommended conditions to secure a mitigation strategy for investigating and recording any assets that might be present within the site. This would enable any remaining archaeology which currently survives on this site to be properly assessed and recorded prior to their alteration or destruction. With the inclusion of such conditions, it is considered that the development would accord with the requirements of the NPPF and the Local Plan in terms of recording archaeological assets and mitigating against any loss of such assets.

Biodiversity

Policy 28 of the Local Plan outlines that a high quality, comprehensive ecological network of interconnected designated sites, sites of nature conservation importance and wildlife-friendly green space will be achieved by protecting, enhancing and managing natural assets. This policy details a need to address gaps in the ecological network by ensuring that all development proposal shall provide and overall net gain in Biodiversity.

Section 15 of the NPPF relates to conserving and enhance the natural environment. Paragraph 180(d) of the NPPF for instance sets out that planning decision should provide net gains for biodiversity. Furthermore, the delivery of biodiversity net gain (BNG) is mandatory under Schedule 7A of the Town and Country Planning Act 1990 (as inserted by Schedule 14 of the Environment Act 2021). Developers must deliver a BNG of at least 10% unless the development is exempt from this requirement. In this case, the applicant has submitted a BNG Statement which sets out that the applicant considers that the proposal would be exempt from BNG as the proposal is for self-build dwellings. To qualify for this exemption, the development must

- consist of no more than 9 dwellings;
- be on a site that has an area no larger than 0.5 hectares; and
- consist exclusively of dwellings that are self-build or custom housebuilding as defined in section 1(A1) of the Self-build and Custom Housebuilding Act 2015.

It is considered that the proposed development could qualify under this exemption as the proposal is for 3 dwellings on a site that is under 0.5 hectares. The local planning authority requires applicants to enter into legal agreements to secure self-build dwellings.

The application is not accompanied by a preliminary ecological appraisal. Therefore, there is no information from a qualified ecologist to set out whether there are protected species within the site, or habitat for such species. Policy 28 sets out that proposals that would directly or indirectly adversely affect protected species to not be permitted unless suitable prevention, mitigation and compensation measures are provided. Whilst there might not be any protected species or habitat for such species within the site, without further information the local planning authority considers that the proposals could adversely affect such species. The proposals therefore do not accord with Policy 28 of the Local Plan.

Planning Balance

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

The proposed development would result in the provision of housing outside of the settlement boundary of Sutton St James. The site is therefore within the countryside in planning policy terms, within 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 years of housing land supply. The limited benefits that would be provided by the proposals do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

The proposed development would comprise inappropriate development outside the settlement boundary of Sutton St James. The development would result in significant harm to the character and appearance of the site and the locality. The proposal could also result in unacceptable living standards for future occupiers as a result of noise levels from the neighbouring property to the south, thereby resulting in an unacceptable standard of amenity. The proposal poses a risk in terms of highway safety due to the location of the proposed accesses. Furthermore, the application is not accompanied by a suitable amount of information regarding the application of the flood risk sequential test and information relating to protected species and habitat for such species. The proposal would therefore not accord with Policies 1, 2, 3, 4, 10, 11, 17, 28, 30 and 33 of the Local Plan and the provisions of the NPPF when viewed as a whole.

There are significant material considerations that weigh against the proposal and as such, the planning balance is against 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

The proposed development would result in the provision of three self-build dwellings outside of the settlement boundary of Sutton St James. The 'tilted balance' is not engaged at the present time, which means that the development is in an unsustainable location, at the bottom of the settlement hierarchy. There are limited benefits weighing in favour of the proposal, and these do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

The proposal is considered to conflict with Policies 1, 2, 3, 4, 10, 11, 17, 28, 30 and 33 of the Local Plan and the provisions of the NPPF when viewed as a whole. These are 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 refused under delegated authority.