

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H20-0517-25	Applicant:	Mrs H Thompson
Proposal:	Proposed demolition of existing barn benefiting from Class Q approval under H20-0124-24 and construction of dwelling, associated garage block and external works		
Location:	Holly Cottage Old Fen Dike Sutton St James		
Terminal Date:	24th September 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
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 4 - Decision making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

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

HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	1	1
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This is a full application seeking permission for the proposed demolition of an existing barn benefitting from Class Q permission, approved under H20-0124-24, and construction of dwelling, associated garage block and external works.

Site Description

The site is located outside any defined settlement boundaries as outlined in the South East Lincolnshire Local Plan, 2019 (SELLP). Holly Cottage is set opposite the junction connecting Old Fen Dike with Sandy Gate, across the road there are two properties. The barn is located to the rear of the site with a smaller barn located to the front of the proposed barn conversion site. A limited number of properties are sited within the immediate area due to it mostly being large open fields located in the countryside.

History

H20-0583-07 - Replacement dwelling - Refused

H20-1079-07 - Replacement dwelling, including wind turbine (re-submission of H20-0583-07) - Approved

H20-1369-07 - Details of landscaping and boundary treatment (Condition 3 of H20/1079/07) - Approved

H20-0686-08 - Proposed detached double garage - Approved

H20-0124-24 - Conversion of barn into single residential unit - Approved

H20-0945-24 - Proposed demolition of existing barn benefiting from Class Q approval under H20-0124-24 and construction of dwelling, associated garage block and external works - Approved

Reason for Refusal:

Whilst the site has Class Q permission nearby, this is on a separate parcel of land and one that is considered to be too far away from the site in this instance for this application to be considered a betterment scheme. As a result of this, the application has no Class Q permission to fall back on and the application must be assessed as a new dwelling in the open countryside.

The proposal site is located outside of any settlement boundary and is therefore still classed as being in the countryside. Policy 1 of the South East Lincolnshire Local Plan, 2019 states that

development in the countryside will only be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits. It is not considered that the application has demonstrated that development is essential in this location or meets a defined housing need. Due to its conflict with Policy 1, the application should be refused on this basis.

Consultation Responses

North Level Internal Drainage Board

No comments.

Lincolnshire County Council Historic Places

Thank you for consulting us on this application.

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.

Lincolnshire County Council Highways Authority

It is noted that they refer to construct the access to a County Specification - this should specifically say to Lincolnshire County Council Specification to avoid confusion/issues at construction. Visibility should be demonstrated in accordance with Manual for Streets.

South Holland District Council Environmental Protection

I request that a precautionary land contamination condition be applied to this location as was previously applied on the approved application H20-0124-24 for this location. As follows: In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported immediately to the Local Planning Authority (LPA). An investigation and risk assessment must be undertaken in accordance with details to be agreed with the LPA. Where remediation is necessary, a remediation scheme must be submitted to and approved in writing by the LPA. Following completion of measures identified in the approved remediation scheme a verification report shall be submitted to and approved by the LPA.

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Senior Ecologist

Summary: There has been sufficient evidence provided to determine this application. We can be confident that this development will achieve mandatory 10% net gain on site however there are some alterations that need to be made to their BNG documentation pre-commencement.

Documents reviewed:

- BNG Statutory Metric.
- Ecological impact assessment.
- Baseline and Post-development maps

- Condition assessments
- BNG supporting statements

Comments

Ecological Considerations:

- The bat roost assessment and LERC search data indicate that there is a negligible risk of impacting bats or barn owls, therefore we do not require any further surveys.
- We support all enhancement and mitigation recommendations provided by the ecologist in the Ecological Impact Assessment, including restricting vegetation clearance to occur outside of the main bird nesting season (March to August inclusive) where possible. If works are justifiably required during the nesting season, then a nesting bird check/habitat inspection should be undertaken prior to work by an ecologists within 24 hours prior to clearance to ensure that there is not nest disturbance within the site. 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

BNG Comments

- We can have confidence that the proposed development can achieve 10% biodiversity net gain on site, however, there is a problem requiring correction in the metric information.
- The baseline and post development areas recorded in the metric are not equal (baseline = 0.25 ha, post-development = 0.19 ha). I have calculated that the total baseline habitat area will match the post-development area by slightly increasing the area of modified grassland in the post-development map and metric sections. Please see my calculations below - they were completed on google earth imagery so might be slightly out but gives rough habitat estimates.

Baseline

- Modified grassland (poor): 0.29 ha (0.58 units)
- Developed land/sealed surface: 0.01 (0 units)

Post development

- Enhanced modified grassland (moderate): 0.09 (0.31 units)
- Vegetated garden: 0.12 (0.23 units)
- Driveway developed land: 0.04 (0 units)
- Building developed land: 0.04 (0 units)
- Individual urban trees: 25 trees, 0.1018 ha (0.31 units)

- Even with these changes, we can be certain that this development will achieve at least 10% net gain on site.

- We just require the applicant to update their baseline map to be the same area as the post-development map. Then the applicant will need to update their BNG metric to match up with these changes. These changes can be made pre-commencement

Conclusion: There has been sufficient evidence provided to determine this application. We can be confident that this development will achieve mandatory 10% net gain on site however there are some alterations that need to be made to their BNG documentation pre-commencement.

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.

Planning Considerations

Principle of Development and Sustainability

The South East Lincolnshire Local Plan (2019) sets out the settlement hierarchy in respect of delivering sustainable development that 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 housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the South East Lincolnshire Local Plan (2019) sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework 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 in respect of sustainable development 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.

Policy 1 (Spatial Strategy) of the South East Lincolnshire Local Plan (2019) indicates that within 'Minor Service Centres', 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. This policy goes on to detail that development within 'Minor Service Centres' will normally be limited to Allocated and Committed sites and infill.

The National Planning Policy Framework, (NPPF) (December 2024) outlines, within Paragraph 61, that "To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay".

Para 73 of the National Planning Policy Framework (December 2024) also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. This states that "Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, are essential for Small and Medium Enterprise housebuilders to deliver new homes, and are often built-out relatively quickly". This policy seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

The application site in this instance is within the postal area of Sutton St James, a Minor Service Centre. However, the site itself lies detached from the main built form or built-up area of Sutton St James, or any built-up settlement and lies beyond the clearly identified settlement boundaries for this settlement, as defined by Policy 1 and its associated inset maps.

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". The site is located outside any Settlement Limits, as defined within the South East Lincolnshire local Plan. It is therefore regarded as being within the countryside in policy terms. As such, the application site falls to be assessed as a 'Countryside'

location, as detailed by this spatial policy.

Principle of Development - Custom and Self Build

The proposal has not been specifically identified as a custom/self-build, with the submitted application form specifically identifying the dwelling as 'market housing'. In any event, for the avoidance of doubt the following is offered in this regard.

In reviewing local policy in respect of self-build, the Self-build and Custom Housebuilding Act 2015 indicates that authorities must give suitable development permission to enough suitable serviced plots of land to meet the demand for self-build and custom housebuilding in their area.

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 that "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), despite giving the statutory requirement regarding self-build and custom-build significant weight, that the appeal site was not a suitable location for that type of housing. This demonstrates the above point in practice. The site in this instance lies outside of the defined settlement boundaries and therefore fails to accord with this, in that the text clearly refers to the anticipation of sites being 'within the defined settlement boundaries'.

The South East Lincolnshire Local Plan makes no exceptions to its spatial strategy for previously developed land, for existing plots of residential land being subdivided, or for self-build. Policy 17 outlines that the provision of new houses will seek to meet the long term needs of the plan area. However, with reference to custom and self-builders it suggests that the Local Plan will seek to meet these housing needs. It does not state that this should be done in a manner inconsistent with the Plan's spatial strategy policies, including through granting permissions. As such, regardless of the local authorities consideration of the development as 'custom or self build' or not, this would not result in the proposal being suitable in an unsustainable location without regard to outweighing benefits.

Open market housing, which this would be considered to be, is not a development type that specifically requires a countryside location. This is particularly the case in this instance where the Council can demonstrate that the housing needs for the area will be met.

Principle of Development - Open Countryside

Returning to the principal matter in respect of the principle of development in the open countryside, 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.

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 application site comprises land that currently sites an agricultural building and is not considered to meet the provisions of either of these policies. The proposal comprises a new residential dwelling located within the open countryside, located on land currently occupied by the aforementioned agricultural building, which is yet to be developed and as such, seeks to replace an agricultural building with a single residential dwelling. Therefore, when considered in its current form, in isolation of other matters, the proposal would not fall under the provisions of either Policy 22 (Replacement Dwellings in the Countryside) or 23 (The Reuse of Buildings in the Countryside for Residential Use)

as the building is not residential in nature currently and the proposal seeks to entirely demolish the existing agricultural building and cannot therefore be considered as a 'conversion'.

The proposal, based on the detail above, therefore conflicts with Policies 1 of the South East Lincolnshire Local Plan, 2019 and therefore is at conflict with the South East Lincolnshire Local Plan. As such, the proposal would not be acceptable in principle, in this regard.

Principle of Development - Class Q Fallback

Further to the above assessment of the principle of development, a significant consideration for this proposal relates to the 'Class Q fallback'. It is important to note, that whilst there is a barn to the rear of Holly Cottage that is subject to approval under Class Q, Part 3, Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order 2015, the specific siting of the dwelling hereby proposed does not lie within the land that comprises the existing agricultural building and as such, is not strictly the same siting of the beneficiary of such permission.

There is considered to be an allowance, to some degree, with respect to Class Q not needing to be on the exact same footprint. This is important in this case, as the dwelling would not be located on the same footprint. However, it is on the same parcel of land in this regard.

Specifically relating to 'Class Q development and its subsequent fallback', the Court of Appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)' provides a significant benchmark and consideration. This case concerned the grant of permission for a four dwelling scheme on land which was presently occupied by a single bungalow and agricultural buildings. The council in this case, granted permission forming the view that a fallback position was present given that the agricultural buildings 'could' be subject to a prior approval under Class Q, which 'could' have provided a resultant development of the same quantum of residential dwellings (three dwellings via Class Q and the retention of the existing bungalow).

This case, which was quashed by the High Court, was subsequently 'reinstated' through the Court of Appeal. With the Court of Appeal establishing through this case that where there is demonstrably a 'realistic prospect' of a 'permitted development' scheme being implemented, and where an alternative proposal would normally conflict with the development plan insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority.

In respect of a 'realistic prospect', this case highlighted that that of 'Sullivan L.J.'s judgment', in that "a 'real' prospect is the antithesis of one that is 'merely theoretical' (paragraph 20). The basic principle is that 'for a prospect to be a real prospect, it does not have to be probable or likely: a possibility will suffice' (paragraph 21)". This went on to detail that "when the court is considering whether a decision-maker has properly identified a 'real prospect' of a fallback development being carried out should planning permission for the proposed development be refused, there is no rule of law that, in every case, the 'real prospect' will depend, for example, on the site having been allocated for the alternative development in the development plan or planning permission having been granted for that development, or on there being a firm design for the alternative scheme, or on the landowner or developer having said precisely how he would make use of any permitted development rights available to him under the GPDO".

As such, "in some cases that degree of clarity and commitment may be necessary; in others, not. This will always be a matter for the decision-maker's planning judgment in the particular circumstances of the case in hand". However, in the case of 'Mansell vs Tonbridge and Malling Borough Council', it was stated that to not consider the fallback of Class Q (even if there is not evidence of a specific proposal under Class Q), would "have been a failure to have regard to a material consideration, and thus an error of law". This clearly demonstrates the need to assess and review the fallback position in respect of Class Q development.

In any event, the court decision also reiterated that "They should remember too that the making of planning policy is not an end in itself, but a means to achieving reasonably predictable decision-making, consistent with the aims of the policy-maker. Though the interpretation of planning policy is, ultimately, a matter for the court, planning policies do not normally require intricate discussion of their meaning".

It stands to reason that, where the alternative new-build proposal offers either an enhancement to the setting, a reduction in density or betterment in overall development, when compared to the

fallback, the development could (and perhaps should) be allowed to proceed.

Class Q permission has been granted on site, and whilst the betterment dwelling is not directly on the same footprint it is considered to be in close proximity and within relatively the same parcel of land. It is considered that the Class Q permission is still applicable meaning the application can be assessed as a betterment dwelling should the appropriate scheme be brought forward. It is also the case, where this can be demonstrated, that an alternative, but nearby siting, may attribute towards the potential betterment scheme.

The design proposed in this instance is considered to be a wholly and significant improvement to what could be developed under the previously approved Class Q permission. It would present a substantial improvement in relation to architectural detailing and materials of construction that act as clear gateways for a betterment application. Previously, the Class Q conversion featured corrugated sheet cladding, whilst this is common within an agricultural setting, there are much better and more positive materials which could be used. The proposal in this regard proposes to use farmyard brickwork and metal sheet wall cladding, metal sheet roof cladding and aluminium windows. These materials are therefore considered to tie into the agricultural feel and history of the area but also provide an overall improvement and subsequent betterment for the proposed dwelling.

Moving on from this, the overall design across the elevations are also considered to be a significant improvement. The front elevation, which will face the highway, features a large barn door style window and barn door adjacent to this, this is mirrored to the rear without the door. Furthermore, the front elevation roof features a large array of solar panels which would provide clear environmental and sustainability benefits which the Class Q proposal could not. The architectural detailing combined with the materials of construction allow for a clear and obvious betterment further allowing the scheme to have a fallback position against Class Q.

As the application can be assessed as a betterment scheme, the Class Q fallback can be applied. As such, although the proposal would be contrary to Policy 1 of the SELLP, there is clear justification and case law which supports a new dwelling in this location, as a betterment scheme.

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 proposed dwelling would be constructed from farmyard brickwork and metal sheet wall cladding, metal sheet roof cladding and aluminium windows. This would create an agricultural style to the design of the building, suiting the area in which barns of similar style would be featured.

The highest point of the dwelling would be 9300mm to the ridge and would sit at 5500mm to the eaves. There would be a slightly smaller section projecting from the rear, which was subject to amendment, following discussion with the applicant's agent to reorientate this projection, which would sit at just over 5000mm. As stated, the initial design featured this section to the front of the property, concerns were raised and correspondence was carried out between the architect and case officer which changed the design for this projection to be on the rear elevation. The basis of this change was due to this being of a fairly modern design and thus would cause harm to the character and locality should it be sited at the front.

Whilst the scale of proposed dwelling is large, the resultant impact upon the character and appearance of the area is somewhat lessened, given the sites ample separation from the highway and surrounding public vantage points, ensuring that the built form is not viewed as a dominant or oppressive addition within its surrounding vicinity.

The amended design, as determined, better suits the area and ensures that the rural nature of the design of the main built form is better viewed from public vantage points; ultimately allows the LPA to assess the application in a more positive light.

The ground floor would have an internal floor space of 153sqm and the first floor would be 99sqm (both approximate measurements). Whilst this would be a significant increase from the previously approved barn conversion, it should not cause any significant material harm in this instance; it is of a similar size and scale to dwellings along Old Fen Dike and should not appear out of character through its size, design or materials used.

The layout is considered to be acceptable and would provide adequate space, accommodation and light throughout.

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.

The separation distances are all over 70m to the nearest neighbouring properties, it is therefore considered that if a dwelling were to be erected on this parcel of land it would have no adverse impact on the amenity of residential properties. There would be no issues surrounding overshadowing or overlooking nor would it have any overbearing impact. Naturally, during construction, minimal additional noise pollution would be caused as a result of the development. Any neighbouring dwellings should not be greatly harmed through an increase in noise due to the aforementioned distances set between them.

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.

The following sources of flooding have been identified, drainage network, surface water, fluvial, tidal, reservoir and groundwater. Although, the EA maps show that surface water flooding has a very low risk, as does reservoir flooding and there is no evidence to suggest the site is at risk of groundwater flooding. The probability of flooding associated with blockages in the South Holland

IDB drainage system is also low due to the maintenance standards achieved and managed by the IDB. No evidence was discovered of the site being flooded. There is a residual risk of flooding in the vicinity of the site should a breach of the tidal defences occur, however this is not significant.

Although the site is located within Flood Zone 3 of the Environment Agency maps, its location in a no hazard zone within the SFRA should be noted. Due to this, there is not considered to be any significant flood risk concerns in the area and the vast majority of the immediate area either. Notwithstanding this, it would still be appropriate to include any relevant mitigation measures highlighted within the FRA.

The following mitigation measures have been proposed; it is recommended that the floor level of the dwelling is 0.3m above surrounding ground level, furthermore, there should be 0.3m of flood resilient construction above finished floor level. It is also considered that the risk associated with any potential flooding is lowered as the proposed dwelling has 2 storeys. These mitigation measures are considered to be acceptable and should adequately reduce the impact any flooding could cause.

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.

There is a total of four bedrooms within the dwelling and therefore they must present three vehicle spaces for off street parking. To the front of the dwelling there would be a large parking/turning area (gravel) which will allow for the residents to park their vehicles and exit via the new access in a forward gear, not only is there plenty of room to store three vehicles safely, there is also a garage adjacent to the dwelling which should also provide extra parking arrangements.

It should be noted that whilst LCC Highways have requested additional information relating to the access being upgraded to their specification and visibility being demonstrated through the Manual for Streets it is considered that the access can be conditioned to ensure this is the case and visibility has been shown within the site plan. Old Fen Dike is a very long open road and visibility should be acceptable. It should also be noted that access for future occupants would also be required for any development that would be constructed as a result of the aforementioned Class Q conversion, as such, the proposal would not give rise to increased impacts in comparison.

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 not exempt from the statutory 10% Biodiversity Net Gain requirements. The LPAs was consulted on the application and has outlined that we can be confident the development will achieve mandatory 10% net gain on site, although some alterations would be needed to be made to their documents pre-commencement.

These matters are therefore secured via pre-commencement conditions.

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 comprises development outside the defined settlement boundary and proposes a single, new built, residential dwelling. In this regard, the proposal is at direct conflict with Policy 1 of the South East Lincolnshire Local Plan (2019)

As detailed, the proposal is at conflict with with Policy 1 of the the South East Lincolnshire Local Plan (2019). However, as per the Court of Appeal case, 'Mansell vs Tonbridge and Malling Borough Council (2017)', the site is subject to a 'Class Q approval' and as such, affords a notable and subsequent fallback position. Therefore, for the most part, with clear justification that the proposal provides a 'betterment' dwelling, a scheme could be acceptable.

For the reasons outlined within the report above, it is considered that the resultant scheme would provide a betterment in respect of the design and style of the resultant dwelling.

In assessing other material planning matters, the development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking,

As such, whilst being at conflict with Policy 1 of the South East Lincolnshire Local Plan (2019), the proposal offers an acceptable and appropriate development, when taking account of the 'betterment proposal' offered in respect of the Class Q approval which is viewed to be a realistic prospect. In all other regards, beyond the siting of the dwelling, the proposal conforms with the South East Lincolnshire Local Plan (2019) and the provisions of the National Planning Policy Framework (December 2024).

In this instance, there are no material considerations that weigh against the proposal and as such, whilst standalone market dwellings would not be supported within such an countryside location, the planning balance is in favour of the development, given the fallback position, in this instance.

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 2, 3, 4, 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).

Although the proposal conflicts with Policy 1, a justification has been made through the scheme being a clear betterment dwelling in comparison to the previously approved Class Q proposal, and is therefore considered to be acceptable.

Recommendation

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