SOUTH HOLLAND DISTRICT COUNCIL

Report of: **Development Manager**

To: **Planning Committee - 08 January 2025**

(Author: **Mark Niland - Planning Officer)**

Purpose: **To consider Planning Application H20-0662-24**

Application Number:	H20-0662-24	**Date Received:**	02 August 2024
Application Type:	FULL		
Description:	Proposed gypsy traveller plot to include mobile, tourer, stable block and day room		
Location:	Second Field South of The Stables 88 Baulkins Drove Sutton St James		
Applicant:	Mr & Mrs West	**Agent:**	Alexandra Design
Ward:	The Saints	**Ward Councillors:**	Cllr L J Eldridge

You can view this application on the Council's web site at
http://planning.sholland.gov.uk/OcellaWeb/planningDetails?reference=H20-0662-24

1.0 REASON FOR COMMITTEE CONSIDERATION

1.1 This item has been before chairman's panel where is was requested that this application is to go to a planning committee for consideration.

2.0 PROPOSAL

2.1 This is a full planning application for a proposed gypsy traveller plot to include mobile, tourer, stable block and day room. The application site would utilise the existing access arrangement.

3.0 SITE DESCRIPTION

3.1 The application site is located to the south of Sutton St James and outside of any defined settlement limit.

The application site is located within Flood Zone 3 in accordance with the Environmental Agency maps for planning. The South East Lincolnshire SFRA shows that on Mapping 2015 (Present Day) - The application site is shown in white cell (low hazard) and future hazard scenarios, 2115 - is also shown in white cell (low Hazard).

The application site at present is an agricultural field with a gated access. The site is located south of 88 Baulkins Drove, Sutton St James.

4.0 RELEVANT PLANNING POLICIES

4.1 **The Development Plan**

South East Lincolnshire Local Plan, March 2019

If regard is to be had to the development plan for the purpose of any determination to be made under the Planning Acts, Section 38 (6) of the Planning and Compulsory Purchase Act 2004, as amended, states that the determination must be made in accordance with the plan unless material considerations indicate otherwise.

4.2 **National Guidance**

National Planning Policy Framework (NPPF) (December 2024)
Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

4.3 Planning Practice Guidance (PPG)

5.0 RELEVANT PLANNING HISTORY

5.1 H20-0513-20 - Residential gypsy caravan site for one family with 2 caravans (retrospective) - approved under H20-0287-06. Modification of Condition 1 to allow the name on the planning approval to be changed to Ms West. Approved 25-08-20.

H20-1139-20 - Siting of temporary mobile home while dwelling is being constructed (retrospective). Approved 23-02-21.

H20-1140-20 - Residential gypsy caravan site for one family with 2 caravans - approved under H20-0513-20. Modification of Condition 1 to allow amendments to previously approved plans (part retrospective). Approved 23-02-21.

H20-0287-06 - Residential gypsy caravan site for one family with two caravans (retrospective). Approved. 29-10-12.

6.0 REPRESENTATIONS

6.1 **Consultation Responses**

6.2 North Level IDB

Please note that North Level District Internal Drainage Board have no objections to the above planning application.

6.3 Environment Agency

1st Response

We object to the proposed development, which is not currently compliant with Policy 4 of the South East Lincolnshire Local Plan 2011-2036, for the following reason:
1. The proposed development is classified as 'highly vulnerable' and is incompatible with Flood Zone 3a, as outlined in Table 2 of the planning practice guidance (PPG) section on Flood Risk and Coastal Change. Notwithstanding the policy objection, we also object to this application on the grounds of:
2. The submitted flood risk assessment is inadequate as it does not meet the requirements of the National Planning Policy Framework (NPPF) and the PPG section on Flood Risk and Coastal Change.
3. The application involves the use of a cess pit in circumstances where it may be reasonable for the development to use an alternative method of foul drainage disposal which involves the treatment of flows.

Overcoming our objection

Our primary objection is that the proposal is contrary to national and local policy, as outlined

under Reason 1, and we would support the refusal of planning permission on these grounds. In this event, we recommend that the applicant does not incur any further expense in addressing the other two points of our objection, outlined under Reason 2 and Reason 3. Please re-consult us on any amended plans submitted and we will respond within 21 days of receiving them.

2nd Response

The EA have now requested the attachment of two conditions (following the LPAs intention to approve). They relate to the submission of a foul drainage strategy and that finished floor levels are set at 500mm above existing ground levels.

6.4 Highways & SuDs Support

No objection.

This application is for a Proposed gypsy traveller plot to include mobile, tourer, stable block and day room which will utilise the existing access arrangements from Baulkins Drove. Sufficient visibility is provided at this location to allow drivers to judge if it is safe to complete the manoeuvre and enter the highway. Adequate provision for car parking and turning space can be provided within the limits of the site to enable vehicles to enter and leave in a forward gear and therefore, it is considered that this proposal would not result in an unacceptable impact upon highway safety.

That said, the existing vehicle access is only appropriate for the previous use as it is just a grass field access and therefore it will need to be made up to the County Council's specification within the extent of the public highway appropriate for its proposed residential use.

As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all major applications. This application is classified as a minor application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

6.5 Environmental Protection

No comments regarding land contamination and no burning of manure permitted.

6.6 Local Ward Member

Objections have been received from a local Ward Member in relation to highways, principle and flooding impacts.

6.7 **Public Representation**

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

7.0 CONSIDERATIONS

7.1 **Evaluation**

7.2 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.

7.3 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.

7.4 The policies and provisions set out in the National Planning Policy Framework (December 2024) are also a material consideration in the determination of planning applications, alongside

adopted Supplementary Planning Documents.

Planning Considerations

7.5 The key considerations are relevant to this section:
- Principle of Development
- Flood Risk
- Highway Safety
- Character and Landscape
- Environmental Issues
- Biodiversity Net Gain
- Planning Balance

7.6 Principle of Development

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.

7.7 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.

7.8 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.

7.9 Part D of Policy 1 of the South East Lincolnshire Local Plan (2019) sets out permitted development types within the open countryside. It 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. In 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".*

7.10 Within the reasoned justification (under para. 3.2.17), housing exception in the countryside are listed. This paragraph 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 needs of a settlement (see Policy 19: Rural Exceptions Sites)".*

7.11 Therefore, residential development within this location, is most typically resisted and not considered sustainable development; being at conflict with Policy 1. However, the considerations of both Policy 20 of the South East Lincolnshire Local Plan (2019) and Planning Policy for Traveller Sites (updated December 2024 - to be read in conjunction with the NPPF) must also take place.

7.12 The policies contained within the Planning Policy for Traveller Sites (December 2024) provide a steer in relation to plan making and decision making for proposals for traveller sites. Para 3 details that "the government's overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community".

7.13 Policy 20 of the South East Lincolnshire Local Plan (2019) is concerned with Accommodation

for Gypsies, Travellers and Travelling Showpeople. The need expressed by Policy 20 is based upon the evidence based collated as part of the Boston & South Holland Gypsy and Traveller Accommodation Assessment (Opinion Research Services, November 2016). The report summaries that:
In summary there is a need for 4 additional pitches in South Holland for Gypsy and Traveller households that meet the new definition; a need for up to 13 additional pitches for Gypsy and Traveller households that may meet the new definition - although if the national average of 10% were to be applied this could be as few as 1 additional pitch; and a need for 9 additional pitches for Gypsy and Traveller households who do not meet the new definition.

7.14 Within the reasoned justification, as outlined within paragraph 5.12.4 under Policy 20, it makes comments relating to 'unknown' need. It states:

The GTAA47 also identifies an 'unknown' need for up to 16 additional residential pitches for gypsy and traveller households (up to 3 in Boston Borough, and up to 13 in South Holland. 'Unknown' needs are those which may arise from gypsy, traveller and travelling showperson's households who were not interviewed by the GTAA consultants. This 'unknown' need will be met by determining planning applications, taking into account the provisions of the NPPF, Planning Policy for traveller sites, and the policies of this Local Plan (in particular Policy 20).

7.15 This proposal is for using the land to site a mobile, tourer and the erection of a stable block and day room. The application site is in the open countryside and is for the purposes of Gypsy Traveller accommodation. On the basis of the above policies then (both South East Lincolnshire Local Plan Policy 1 & 20) the residential type is commensurate with the overarching spatial strategy for the district.

7.16 On the basis of accommodation type in the open countryside the proposal is in conformity with Policy 1 of the South East Lincolnshire Local Plan (2019) and subject to the assessment that it meets the broader sustainability objective of the plan.

7.17 Flood Risk and Drainage

7.18 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".

7.19 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).

7.20 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.

7.21 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 South East Lincolnshire Local Plan (2019); 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.

7.22 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.

7.23 Policy 4 of the South East Lincolnshire Local Plan (2019) sets out South Holland's approach to Flood Risk. The application site lies within Flood Zone 3 in accordance with EA Mapping. The South East Lincolnshire Strategic Flood Risk Assessment (March 2017), indicates that the application site is shown to be low hazard rating on both the South Holland District present day and 2115 flood maps.

7.24 The application site is located within Flood Zone 3a in accordance with the EA flood maps for planning. Policy 4 of the South East Lincolnshire Local Plan (2019) states that:

Caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding.

7.25 The EA have been consulted and have objected to the development on 3 grounds, they are
1. The proposed development is classified as 'highly vulnerable' and is incompatible with Flood Zone 3a, as outlined in Table 2 of the planning practice guidance (PPG) section on Flood Risk and Coastal Change.
2. The submitted flood risk assessment is inadequate as it does not meet the requirements of the National Planning Policy Framework (NPPF) and the PPG section on Flood Risk and Coastal Change.
3. The application involves the use of a cess pit in circumstances where it may be reasonable for the development to use an alternative method of foul drainage disposal which involves the treatment of flows.

7.26 Whilst the consultee is suggestive that perhaps reasons 2 and 3 could be surmountable they have stated *"Our primary objection is that the proposal is contrary to national and local policy, as outlined under Reason 1, and we would support the refusal of planning permission on these grounds. In this event, we recommend that the applicant does not incur any further expense in addressing the other two points of our objection, outlined under Reason 2 and Reason 3".*

7.27 On this basis the proposal is contrary in flooding principle, to Policy 4 of the South East Lincolnshire Local Plan (2019), as well as the National Planning Policy Framework (December 2024) and Planning Practice Guidance.

7.28 Notwithstanding this, the 'planning balance' section sets out material planning matters that suggest this application should be approved. This relates to the direction in appeal ref: APP/A2525/C/20/3258547 from the planning inspectorate that an application site two fields to the north (subject to the same flood risk concerns) was acceptable in flooding terms.

7.29 The LPA have returned to the Environment Agency giving notice that they intend to approve and have requested further comments. The EA have submitted comments and have requested that a condition for foul water disposal should be attached to any permission, the details of which should be submitted to and agreed in writing with the LPA. The premise is that a solid connection to an existing network should first be explored. The applicant has provided a response stating that a connection to existing mains is too far from the site to reasonably secure an extension. The EA are also concerned about leachate, and have stated that cesspools are not supported as a permanent solution. Package Treatment Plant and septic tank should first be considered in that order. The condition will therefore be attached.

7.30 Another condition that is proposed is that all finished floor levels should be 500mmm above existing ground levels. The only physical structures that require planning permission are the stable block and day room. The static and tourer do not require permission, rather the land they are sited upon. On this basis (given the stable is for horses) only the day room could reasonably be subject to such a condition. This will be attached as it offers users of the site a 'safer' location in the instance of a flood event.

7.31 <u>Highway Safety</u>

7.32 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".

7.33 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.

7.34 The proposal is in effect to serve a single family unit. Lincolnshire County Council Highways, as Local Highway Authority, have been consulted and have no objections to the proposal subject to a condition which would ensure that the access width and visibility are satisfactory.

7.35 It is considered that the limited use of this site by the addition of vehicular movements is acceptable in highway safety terms and so the proposal would accord with Policies 2 and 3 of the South East Lincolnshire Local Plan (2019).

7.36 Character and Landscape

7.37 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.

7.38 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.

7.39 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.

7.40 Policy 2 of the South East Lincolnshire Local Plan (2019) states 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. Policy 2 point 1 states that the proposal should meet with sustainable development considerations specifically in relation to 'size, scale, layout, density and impact on the amenity, trees, character and appearance of the area and the relationship to existing development and land uses'.

7.41 Policy 3 sets out the 'Design of new development' in part it states 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"

7.42 The stable, mobile and day room would be of low scale and therefore not give rise to wider impacts. The location whilst annexed from the settlement would not look at odds with the countryside character and this is due to the existing hedgerows that perimeter the site and the appropriate palate of material proposed.

7.43 In terms of character and landscape then the proposal would accord with Policies 2 and 3 of the

South East Lincolnshire Local Plan (2019), as well as Section 12 of the National Planning Policy Framework (December 2024).

7.44 Environmental Issues

7.45 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.

7.46 Policy 2 of the 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.

7.47 Policy 30 of the South East Lincolnshire Local Plan (2019) is concerned with pollution and places impacts in relation to noise, disturbance and air quality as important consideration when considering proposals for planning.

7.48 The proposal is for a residential use and there are a number of which further north. The issue of the site by a single family therefore would not (through noise and disturbance) have an unacceptable impact upon those existing properties. Furthermore, the site is sufficiently away from existing dwellings to give rise to unacceptable issues from the presence of physical structures on site.

7.49 On this basis, the proposal would accord with Policies 2 & 30 of the South East Lincolnshire Local Plan (2019), as well as Para 135 of the National Planning Policy Framework (December 2024).

7.50 Biodiversity Net Gain

7.51 Paragraph 193 of the National Planning Policy Framework (December 2024) sets out a criteria-based approach for Local Planning Authority's to apply when considering development proposals. The criteria, in part, includes methods to protect and encourage biodiversity as well as preventing development resulting in the loss of priority habitats.

7.52 Paragraph 187d of the National Planning Policy Framework (December 2024) is also relevant requiring net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.

7.53 Policy 28 of the South East Lincolnshire Local Plan (2019) is concerned with the Natural Environment, with points 2 and 3 being relevant to this assessment. Point 2 is concerned with nationally or locally designated sites and protected or priority habitats and species and point 3 with addressing gaps in the ecological network.

7.54 The applicant has provided a Biodiversity Net Gain statement stating that the development would be exempt as a self-build and custom build application.

7.55 **Planning Balance**

7.56 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.

7.57 The proposal represents inappropriate development within Flood Zone 3. Policy 4 of the South East Lincolnshire Local Plan (2019) is clear that caravans, mobile homes and park homes intended for permanent residential use will not be permitted in areas at risk of flooding. However it is noted that there are Gypsy/Traveller Pitches further north (one of which is allocated within the plan) within the same flood zone, of which weight needs to be given. This point is further

raised within the Planning Policy for Traveller Sites (updated December 2024 - to be read in conjunction with the National Planning Policy Framework (December 2024)).

7.58 Under planning appeal APP/A2525/C/20/3258547 (Land on the east side of Baulkins Drove, Sutton St James) the inspector did not find the development plan policies (policy 4) inconsistent with planning practice guidance and gave weight to the applicants site specific flood risk assessment. Under paragraph 17 the inspector states:

As set out above the site is identified in the Strategic Flood Risk Assessment as being within a Residual Low Hazard Zone where, due to existing flood defences, there would be no residual depth of floodwater. The defences are designed to protect against a 1:200 year tidal event and a 1:100 year fluvial event. The FRA sets out the likelihood of overtopping or failure of flood defences to be small, whilst taking into account predicted rise in sea level; that the maintenance of existing tidal defences over a 50 year period has been demonstrated to be cost-effective; that the site drains to two pumping stations, discharging to the River Nene, in relation to which temporary pumping equipment would be used in the unlikely event of failure; and that main drainage is subject to a routine maintenance programme and designed to allow for water storage in an extreme flood event. The FRA states that in a very extreme event the rise in water level would not be sudden, thus allowing for precautionary action. It concludes residual flood risk to be very low (less than 1:200 years) and to adjoining properties not to be increased as a result of the development.

7.59 Under paragraph 18:

The FRA findings are an important material consideration. The Council accepted at the Hearing that the risk of flooding on the site was demonstrated to be low and did not dispute the findings of the FRA. I have no reason to disagree. I am also mindful that, according to the Council's statement, it has allocated a site in the LP to extend residential development at an existing travelling show persons' site elsewhere on Baulkins Drove, and at the Hearing it was unable to discount that it had granted planning permission for other Gypsy and Traveller sites elsewhere in FZ 3. When asked about this at the Hearing the Council sought to distinguish these sites on the basis that they involved expansion through reconfiguration rather than the provision of new sites. However in this regard I concur with the appellant that regardless of how the sites are physically provided, it still results in more people living within the area.

7.60 And conclusively under paragraph 19:

Drawing the aforementioned considerations together, I am satisfied that the effect of flood defence infrastructure on residual flood risk is capable of outweighing the default policy position. I shall return to this matter when considering the 'Planning Balance' later in the decision.

7.61 Notwithstanding that the EA have maintained an objection to the proposal on flooding principle terms, it is clear that as this site is subject to those same defences, and that, the Flood Risk Assessment draws the same conclusions and so only the same planning considerations can be applied as regards flood risk.

7.62 The proposal would provide accommodation that is acceptable in a countryside location, and on balance given the case law set out above that gives direction in terms of flooding considerations, it is considered that the development is acceptable.

7.63 In this instance then, there are material considerations that weigh for the proposal and as such, the planning balance is in favour of the development.

7.64 **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.

8.0 RECOMMENDATIONS

8.1 Approve subject to conditions

9.0 CONDITIONS

1. The development must be begun not later than the expiration of three years beginning with the date of this permission.

   Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents:

   PL01
   Flood Risk Assessment by Ellingham Consulting Ltd, dated July 2024
   Design and Access Statement by Alexandra Design
   BNG Exemption by Alexandra Design

   Reason: For the avoidance of doubt and in the interests of proper planning.

3. The site shall not be occupied by any persons other than Gypsies and Travellers, defined as persons of nomadic habit of life whatever their race or origin, including such persons who on grounds only of their own or their family's or dependants' educational or health needs or old age have ceased to travel temporarily or permanently, but excluding members of an organised group of travelling showpeople or circus people travelling together as such.

   Reason: To define the terms of the permission.
   This condition is attached in accordance with policies 1 and 20 of the South East Lincolnshire Local Plan 20219.

4. Notwithstanding the recommendations of the submitted Flood Risk Assessment, the finished floor levels of the day room will be set a minimum of 500mm above ground level.

Reason: To reduce the risk of flooding.
This Condition is imposed in accordance with Policy 4 of the South East Lincolnshire Local Plan 2019.

5. Before the first use occupation of the development hereby granted, details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained and to avoid pollution.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

6. **Biodiversity Net Gain**

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

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 guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

Self Build/Custom Build

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite

habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.

7. The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

8. The permitted development requires the formation of a new/amended vehicular access. These works will require approval from the Highway Authority in accordance with Section 184 of the Highways Act. The works should be constructed in accordance with the Authority's specification that is current at the time of construction. Relocation of existing apparatus, underground services or street furniture will be the responsibility of the applicant, prior to application.

For application guidance, approval and specification details, please visit:
https://www.lincolnshire.gov.uk/licences-permits/apply-dropped-kerb
or contact vehiclecrossings@lincolnshire.gov.uk

9. Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

10. Government guidance contained within the national Planning Practice Guidance (Water supply, wastewater and water quality - considerations for planning applications, paragraph 020) sets out a hierarchy of drainage options that must be considered and discounted in the following order:
1. Connection to the public sewer
2. Package sewage treatment plant (adopted in due course by the sewerage company or owned and operated under a new appointment or variation)
3. Septic Tank

Foul drainage should be connected to the main sewer. Where this is not possible, under the Environmental Permitting Regulations 2016 any discharge of sewage or trade effluent made to either surface water or groundwater will need to be registered as an exempt discharge activity or hold a permit issued by the Environment Agency, additional to planning permission. This applies to any discharge to inland freshwaters, coastal waters or relevant territorial waters.

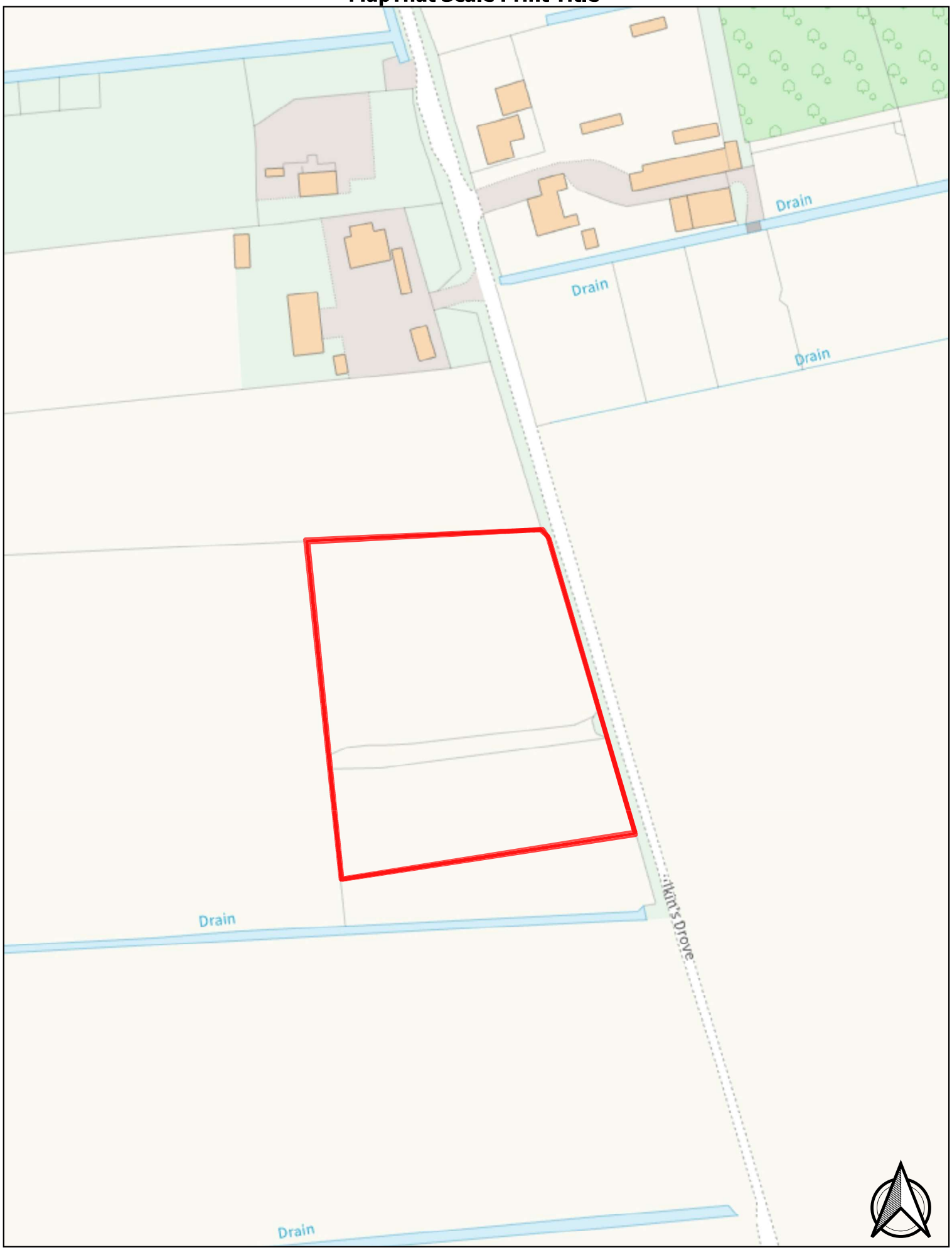
Only in exceptional circumstances will the provision of a cesspit be acceptable. Only when it can be demonstrated that: connection to a foul sewer is impracticable, the installation and operation of a package treatment plant or septic tank is not possible, and a system is in place through planning to ensure and record the proper operation and maintenance of the cesspit- would the use of a
cesspit be considered acceptable.

Background papers:- Planning Application Working File

Lead Contact Officer
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Appendices attached to this report:
Appendix A - Plan A

MapThat Scale Print Title



SOUTH HOLLAND DISTRICT COUNCIL

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