

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H20-1148-25 **Applicant:** Mitch-tech Group Limited

Proposal: Erection of an oak framed double garage and a single storey gym / training building. Demolition of existing outbuilding structures to replace with two single storey, storage units for business use and the repurposing of the existing barn structure to create a dedicated workshop building for business use - Retrospective

Location: Lynn House Mill Lane Sutton St James

Terminal Date: 30th January 2026

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
07	Improving South East Lincolnshire's Employment Land Portfolio
28	The Natural Environment
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 6 - Building a strong, competitive economy
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

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	0	1
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Description of Proposal

This is a Full Planning application seeking permission for the creation of four buildings in total, the conversion of another and the demolition of three more buildings. A boundary wall is also proposed. Elements of this application are retrospective.

Moving from building A to E (as shown on drawing ref 1752 - P - 103 Rev 3.0) an existing domestic garage has been demolished. It has been replaced by a new garage, measuring 8.5m by 6.85m. To the eaves the height is 2.3m, rising to 4.75m at the apex of its dual pitched roof. The open fronted garage is constructed of a green oak timber frame, with black timber cladding above a course of Cottage Mixture facing brick. Fibre cement black slate roofing has been used.

Building B is a domestic gym, measuring 18.8m by 8.05m. The eaves height is set at 2.5m rising to 3.65m at the apex of the mono-pitch roof. It is proposed that the gym would be constructed of brick for the first 1.2m with black timber cladding above. The roof would be sheet metal in anthracite grey. The gym building is in place, although it is yet to be clad.

Building C is an existing open fronted barn. It is proposed that this would be reclad and converted into a B2 industrial workshop. Whilst the frame of the building would remain intact, new walls would be added and the overall appearance of the structure would change dramatically. Due to the changes in materials, the eaves and ridge height would be raised by 15mm and 10mm respectively. Walls and roof coverings would be anthracite grey sheet metal.

Building D (Storage Unit A) would replace an existing agricultural storage building. It would measure 10m by 8m, with a height to the eaves of 3.55m rising to 4.7m at the apex. It is proposed that the building would be constructed of brick for the first 1.5m with black timber cladding above. The roof would be sheet metal in anthracite grey. A small solar array would be located on the roof.

Building E (Storage Unit B) would also replace an existing building. The design would broadly be the same as Storage Unit A, albeit with the width doubled to 20m.

Finally, a 1.8m high boundary treatment is proposed, running approximately 130m around the perimeter of the site. This would be comprised of 0.9m of brick wall with black steel boards between brick pillars.

Site Description

The site is located outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019, and can therefore be considered to be within the Countryside. The site is approximately 350m south of Sutton St James, along the narrow Mill Lane.

The development site is located at the point where Mill Lane leads into Taylor Drove, a narrow access track. Lynn House is currently comprised of a red-brick dwelling to the north of the site, and an agricultural yard.

Relevant History

No relevant site history.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Historic Environment Officer

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

Lincolnshire Wildlife Trust

"Thank you for inviting comment from Lincolnshire Wildlife Trust on this application. Our conservation officers have reviewed the referenced development against a series of strategic conservation and ecological criteria. In review of the variation documents presented, The Trust has no substantive comments or recommendations on the proposal".

North Level Internal Drainage Board

"My Board has no objections to the above application.
Any connections to an existing watercourse or drainage network will require land drainage consent and a development levy payable".

Highway and Lead Local Flood Authority

"No objections - The proposal is for Erection of an oak framed double garage and a single storey gym / training building. Demolition of existing outbuilding structures to replace with two single storey, storage units for business use and the repurposing of the existing barn structure to create a dedicated workshop building for business use - Retrospective and it does not have an impact on the Public Highway or Surface Water Flood Risk. The vehicle movements associated with this proposal are very low and sufficient parking and turning can be accommodated with the site to allow vehicles to enter and leave in a forward gear".

Environmental Protection

"I request a precautionary land contamination condition be applied at 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".

Public Representations

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

Key Planning Considerations

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.

The adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2024 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Principle of Development - Policy Context

Spatial Strategy

Policy 1 of the SELLP sets out the settlement hierarchy in respect of delivering sustainable development, which meets the social and economic needs of the area whilst protecting and enhancing the environment; in order to provide enough choice of land for housing to satisfy local need, whilst making more sustainable use of land, and to minimise the loss of high-quality agricultural plots by developing in sustainable locations and at appropriate densities.

Policy 1 expresses this sustainable hierarchy of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the 'Sub-Regional Centres', followed by 'Main Service Centres'. Lower down the hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising 'Other Service Centres and Settlements'. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location.

The site is located outside of any defined settlement boundaries and can therefore be considered in the Countryside for the purposes of Policy 1. The wording of the Policy is clear that this designation is based principally on the settlement boundaries outlined in the relevant inset maps, rather than alternative considerations on the ground such as the built form of the area.

In this context, Policy 1 states "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."

Importantly, Policy 1 does not differentiate in its application between uses; and therefore, both the domestic and commercial aspects of the proposal would both be assessed against Policy 1, in addition to any other relevant policies and guidance.

Employment Space

Where a proposal involves the creation of a new employment site, Policy 1 is supported by Policy 7. Policy 7 directs development of new employment opportunities to the allocated employment sites listed within this policy. Where this is not possible, Policy 7 provides the following:

"New employment development/businesses or the extension of an existing business outside the above allocated employment sites will be supported provided that the proposal involves the re-use of previously-developed land or the conversion/re-use of redundant buildings. Where it can be demonstrated that no suitable building capable of conversion/re-use is available or the re-use of previously-developed land is not available or is unsuitable, proposals on non-allocated sites may be

acceptable provided:

- a. the development does not conflict with neighbouring land uses;
- b. there is no significant adverse impact upon the character and appearance of the area;
- c. the design is responsive to the local context;
- d. there will be no significant adverse impact on the local highway network;
- e. there will be no significant adverse impact upon the viability of delivering any allocated employment site;
- f. proposals maximising opportunities for modal shift away from the private car are demonstrated; and
- g. there is an identified need for the business location outside of identified employment areas on the Policies Map".

Paragraph 4.2.11 expands upon this stating:

"National planning policy supports the conversion of existing buildings and well-designed new buildings in the Countryside for economic development. Therefore, the provision and expansion of Other Employment Sites, including those in the Countryside, will be supported where it can be demonstrated to be sustainable and consistent with the requirements of Policy 7. However, the desire to promote rural employment must be balanced with the need to protect the existing character of the Countryside."

The relevant national planning policy here would be Paragraph 88 and 89 of the NPPF, which are discussed in greater detail below.

Given the existing use of the site (in part) as agricultural land, the site would not be considered 'previously developed land' in accordance with the definition contained within the NPPF.

Annex 2 of the NPPF defines previously developed land as follows:

"Previously developed land: Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape".

The site is not allocated as an employment site within Policy 7, or the accompanying inset maps. Whilst there is an element of re-use, this would only be the frame of an existing building and the extent of works proposed would exceed what would reasonably be expected for a conversion. Moreover, this only forms part of the wider scheme and cannot be said to be such a significant component of the employment proposal as to lead to the disregard of the non-conversion elements.

As such, the proposal would be assessed under criteria a-g of Policy 7

Supporting a Prosperous Rural Economy

Paragraphs 88 and 89 of the NPPF concern the creation of business uses within rural areas. Naturally, both are applicable here.

Paragraph 88 states that "Planning policies and decisions should enable:

- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, new buildings;
- b) the development and diversification of agricultural and other land-based rural businesses;
- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
- d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship."

Paragraph 89 of the NPPF expands upon this further, particularly with respect to accessibility. The provisions of this paragraph have been copied below:

"Planning policies and decisions should recognise that sites to meet local business and community

needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist".

Principle of Development - Assessment

In the interest of the cohesion of this report, the following assessment of the principle of development is broken into two components: domestic and commercial.

The domestic elements shall be assessed against Policy 1 of the SELLP alone, whilst the commercial elements shall be assessed against Policies 1 and 7 as well as Section 6 of the NPPF.

That being said, as the application has been made as a whole, the final conclusion of the principle of development must be made against the entire scheme.

Domestic Uses

The domestic elements of the proposal are comprised of the boundary wall, the gym and the garage. The proposed garage would be on a comparable footprint to the previous garage which served the domestic dwelling at Lynn House. However, the proposed gym appears to be partially located outside of the existing domestic curtilage of the dwelling. The proposal would therefore represent expansion of a domestic curtilage into the Countryside.

Therefore, the proposal should be assessed under the Countryside section of Policy 1. As outlined previously, development would have to be necessary to such a location or contribute to the sustainable development needs of the area. This approach is consistent with appeal reference APP/A2525/W/24/3356622, which clearly outlined that proposals which would extend the domestic curtilage of a property must still be assessed against Policy 1 and must still meet the relevant assessment of need and/ or benefit.

No justification for the location of the gym has been provided. There is no tangible reason why this building could not be located within the existing curtilage. Therefore, there is no need for the development to be located outside of the domestic curtilage.

Turning to the proposed gym's contribution to the development needs of the area, as a private domestic building, all benefits would be conferred to the site owner only. The benefits are private and therefore no contribution to the needs of the area are present.

The proposed gym therefore conflicts with Policy 1 of the SELLP, as it would result in the extension of domestic curtilage into the countryside. The provisions of Policy 1, with the interpretation of this policy informed by relevant appeal decisions, are clear that this assessment is independent of the built form of the area.

Commercial Use

As outlined previously, a proposal for a commercial use should be consistent with Policies 1 and 7 of the SELLP taken as a whole to be considered acceptable in principle.

Assessing the proposal on this basis, beginning with Policy 1; the proposal is not considered to necessitate this location. As explored in more detail within the assessment against Policy 7, a B2 use, when looking at the broad use class rather than the specific business within said use class, would not necessitate a countryside location, and would be better placed within an identified employment site or settlement boundary in accordance with the provisions of the Local Plan. The conversion of a building is not in itself a justification for development in a specific location. Whilst it may be the case that the business has outgrown its' existing accommodation, as stated in the Design and Access Statement, there is no reason presented why this site would be favourable over others. As such, it is considered that the proposal does not necessitate this location.

As it is not considered that the proposal is necessary to this location, it remains for the application to contribute to "sustainable development needs of the area in terms of economic, community or

environmental benefits."

Economic - While it is accepted that there would be some benefit, it is not considered that the gains arising from the site would be greater than if the site was located within an employment site. It could be argued that the potential gains arising from the location proposed here are lower, as there would not be the mutual benefit which would arise from development on an employment site. The relevant weighting under Section 6 of the NPPF has been applied; however, even with this, the economic benefits are not so substantial as to outweigh the wider identified harm and conflict with policy.

Community - in this instance, social benefits are taken to be benefits beyond simply those arising from employment and economic growth. With this in mind, it is not considered that the proposal would result in a community benefit as no communal land or social opportunities (such as operating as a community hub) are proposed. In any event, the positioning and inaccessibility of the proposal reduces any potential benefits

Environmental - the development of the units would have obvious environmental impacts associated with emissions during construction. The proposal has made use of the "de minimis" exemption to the BNG condition and planting scheme has been provided. The proposal would therefore not appear to create any additional habitats. In any event, the provisions of Policy 1 are such that the gains should be for the benefit of the area, not just the individual plot. It is not considered that the proposal would contribute to the environmental needs of the wider area. Moreover, what limited gains are provided would be somewhat offset by the reliance on private vehicles to access the site.

As such, the proposal is considered to represent development within the open countryside, which is both not necessary, or able to provide for the needs of the area. Therefore, the proposal is considered to be contrary to Policy 1.

Moving to Policy 7 (the content of which is outlined above), in light of the judgment that the proposal ought to be assessed against the criteria a-g, the following is considered:

- a. The proposed use would functionally not conflict with neighbouring land uses, which are primarily commercial or agricultural.
- b. This point is explored in greater detail within the "Layout, Design, Scale and Consideration of the Character of the Area" section of this report. That being said, the use itself would not necessarily conflict with the prevailing agricultural land uses in the area.
- c. This point is explored in greater detail within the "Layout, Design, Scale and Consideration of the Character of the Area" section of this report. That being said, when taken as a whole, inclusive of the domestic elements such as the proposed wall, the design is considered to be harmful to the character of the area due to its urbanising effect and its impact upon the openness of the area.
- d. The proposal would not have an adverse impact upon highway safety, in line with Paragraph 116 of the NPPF.
- e. Due to the relatively small scale of the proposal, the development would not have an adverse impact upon the viability of other sites.
- f. The matter of accessibility is discussed in greater detail within the Highway Safety and Parking section of this report. To briefly summarise, the site is not readily accessible via sustainable modes of transport, and users would be reliant upon private vehicles.
- g. As outlined previously within this report the proposal is not considered to necessitate this location.

The proposal can therefore be considered contrary to Policy 7 also.

As previously touched upon, weight is given in favour of the proposal due to its economic contribution. Paragraph 85 of the NPPF states: "Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development".

The relevant weight in favour has been applied here.

Turning to Paragraphs 88 and 89 of the NPPF which were previously mentioned in this report; the provisions of Paragraph 89 are such that allowances for businesses outside of settlement boundaries should still be accessible and appropriately located. As established throughout this statement, the site lacks suitable accessibility by public transport and there is no clear functional need for the business in this location. To this end, the allowances under Paragraph 89 are not considered to be wholly applicable here and cannot be considered a carte blanche for development

in the Countryside.

Turning to Paragraph 88, whilst the proposal would involve the reuse of an existing building, the level of works proposed go beyond what would typically be expected for a conversion. Moreover, the works far exceed just a conversion due to the additional buildings proposed. As such, whilst some weight is given in favour of the proposal under Paragraph 88, it is not considered that the proposal wholly aligns with this paragraph.

The proposed business use is therefore considered to be contrary to Policies 1 and 7 of the SELLP and is unacceptable in principle, even with the weight transferred in favour of economic development under Section 6 of the NPPF.

Summary

To summarise, the development as a whole is considered contrary to Policies 1 and 7 of the SELLP. There is no reasonable justification provided as to why the development should occur within the Countryside and the criteria of the relevant policies have not been met.

As such, the proposal is unacceptable in principle.

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

Section 12 of the NPPF, "Achieving well-designed places", states 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 NPPF, states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping. 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. Developments 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, among other considerations.

Likewise, Policy 2 of the SELLP outlines sustainable development considerations for proposals; providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 of the SELLP 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 NPPF 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 submitted designs show a cohesion throughout the site. There is consistency in materials and design choices which creates a sense of place within the site. This ensures that the site is read as a whole, which helps to reduce visual discordance with the area. Whilst the gym and garage are large, they would still be visually subservient to the host dwelling. This reduces the visual impact of the development and ensures these elements are visually linked.

That being said, when taken as a whole, the developments are considered to represent an urbanising feature, which detracts from the rural character of the area. The wall enclosing the site leads to a more urban appearance, whilst the breaking the established openness of the rural area. This combined with the more urban design of the proposed buildings, particularly the industrial buildings seeking to replace typical (albeit unattractive) agricultural buildings which lend themselves to the creation of a rural character, would result in an urbanising effect, which detracts from the rural

character of the area.

Taking account of the design, scale, and nature of the development, as detailed above, the proposal is considered to be unacceptable. The proposal would have an adverse impact on the character and appearance of the area and would therefore be contrary to Policies 2 and 3 of the SELLP and Section 12 of the NPPF.

Impacts Upon Resident Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

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

Despite the potential for noise from a B2 use, the relative isolation reduces the potential impacts. The proposed working hours are appropriate to prevent an overly detrimental impact.

As detailed above, the scale and design of the proposal is considered to have 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 Section 12 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 9 of the NPPF is titled 'Promoting sustainable transport'. Within this, Paragraph 116 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. Policy 33 further reinforces the need for developments to be accessible via sustainable modes of transport. Likewise, as detailed above, Policy 7 is explicit that proposals for employment uses outside allocated sites should demonstrate a modal shift away from private vehicles.

The provisions of the Local Plan outlined above are consistent with Section 9 of the Framework, which broadly outlines that development proposals should give priority first to pedestrian and cycle movements and to promote walking, cycling and public transport use.

Policy 36 of the SELLP, in conjunction with Appendix 6, sets out minimum vehicle parking standards and requires at least space per 65sqm. This has been achieved.

No footpath links the site to the nearest settlements. As such, the development would not be safely accessible by pedestrians. The site is not accessible via any method public transport either. Accessibility by bike would be limited by the condition and width of the road. The lack of street lighting, levels of light during poor weather conditions and the need to navigate this un-kerbed road would also be further reasons why the site would not be a suitable location which would offer genuine alternative access to the private vehicle

The proposal would therefore only be reasonably accessible via private vehicle. This directly conflicts with the principles of the above SELLP policies. On this basis, access via sustainable modes of transport is limited, and the proposal is therefore contrary to Policies 2, 3, 7 and 33 of the SELLP.

Flooding Considerations

Section 14 of the NPPF requires development plans to "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: (...) applying the sequential test and then, if necessary, the exception test as set out below".

Paragraph 174 of the NPPF states "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". The strategic flood risk assessment provides the basis for applying this test.

Paragraph 175 of the NPPF states 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 process for applying the Exception Test is outlined within Paragraphs 177, 178 and 179 of the NPPF. Paragraph 178 states "to pass the exception test it should be demonstrated that: a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall"

The site lies within Flood Zone 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 SELLP 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 SFRA as a basis to apply the sequential test.

Within the SFRA the site is outside of any identified hazard zone.

The existing use of the land is agricultural. Within Annex 3 of the NPPF, the use would be classed as "less vulnerable", which would be the same categorisation as the proposed business use. The domestic use would be classed as "more vulnerable".

Beginning with the non-domestic use, as much of the proposal relates to a change of use, within the same vulnerability classification, the provisions of Paragraph 176 of the NPPF are relevant, and there is no requirement to apply the sequential or exceptions test. In any event, Paragraph 174 of the NPPF is clear that the sequential test should utilise the SFRA, in which case the site is not considered to be at risk of flooding.

Turning to the domestic buildings, both are outbuildings, not designed for habitation. Residents could, in a flood event, reasonably access the upstairs of the main dwelling to act as a safe refuge.

Overall, when considering the development on balance, it is considered, given the mitigation measures detailed and recommended by condition, that the proposal accords with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Biodiversity Net Gain

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) requires developers to deliver a minimum of 10% Biodiversity Net Gain 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.

It has been asserted by the applicant that the development would impact less than 25 square metres of onsite habitat that has biodiversity value greater than zero and less than 5 metres in length of onsite linear habitat. As such, the proposal is considered to be exempt from the need for to apply the net gain condition.

Planning Balance

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

The proposed gym would result in a domestic outbuilding outside of the existing domestic curtilage, thereby extending the curtilage of the dwelling. This expansion and additional building is not considered necessary nor would it contribute to the sustainable needs of the area, in accordance with Policy 1. On this basis, the proposed gym is considered unacceptable in principle.

The proposed business use is considered contrary to the provisions of Policies 1 and 7 of the SELLP. The proposal would represent unnecessary development, in an inaccessible location within the Countryside. Access by sustainable methods of transport, as encouraged under Policies 2, 3, 7 and 33 of the SELLP as well as Section 9 of the NPPF, would be limited.

The level of development and its nature would result in an urbanising development, at odds with the rural character of the area. The density of development, their overarching design approach and the enclosing boundary wall would all detract from the open, agricultural character currently within the area.

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 these factors into consideration, the proposal is considered contrary to Policies 1, 2, 3, 7 and 33 of the SELLP, as well as Section 9 of the NPPF. There are no significant factors in this case that would outweigh the harm identified; therefore, the planning balance is against the proposal.

Recommendation

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