

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H22-0776-26 **Applicant:** Mr A Goddard

Proposal: Use of land for the parking of private motor vehicles and domestic trailers - retrospective

Location: Elderberry Lodge 172 Broadgate Weston Hills

Terminal Date: 15th October 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
29	The Historic Environment
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework August 2026

Section 4 - Achieving sustainable development
Section 14 - Achieving well-designed places
Section 15 - Promoting sustainable transport
Section 17 - Pollution, public protection and security
Section 18 - Managing flood risk and coastal change
Section 20 - Conserving and enhancing the historic environment

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	0	1
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE	0	0	0	1

BOARD				
SHDC INTERNAL	0	0	1	0
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Description of Proposal

This is a full planning application seeking permission for the "use of land for the parking of private motor vehicles and domestic trailers". The application is made retrospectively. The hard surfaced area would measure approximately 47m by 27m, giving a total approximate area of 1230sqm. It is proposed that the parking area would be finished in tarmac chippings, loosely laid over a compacted hardcore sub-base.

Site Description

The site is located outside of any settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019. It is approximately 375m south of Weston Hills, within a distinctly rural area. Elderberry Lodge is a brown brick bungalow, with a large parking area to the front.

The application site is located off of an access track, to the south of the property. A barn is located to the north of the proposed hardstanding area. Paddock land and fields surround the site.

Relevant History

H22-0058-90 - Section 32a - To retain the dwelling without complying with the restricted occupancy condition - Approved 18/01/90

H22-0146-03 - Householder - Proposed bedroom/en-suite extension - Approved 09/04/03

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:

Highway and Lead Local Flood Authority

The proposal does not have an adverse impact on the Public Highway.

South Holland Internal Drainage Board

Outline when consent would be required from the Board

Weston Parish Council

Weston Parish Council is concerned about the number of HGV's that may use the site. And asks that it be restricted to no more than two HGV's

Historic Environment Officer

Initial Comments, dated 11/09/26

Thank you for consulting us on this application. It is noted that the applicant has not submitted an assessment of the heritage significance of the site, as required by Policy HE5 of the NPPF.

The proposed development is situated within an area of archaeological potential as recorded in the HER (Historic Environment Record). Several archaeological assets are recorded within only 200 metres of the proposal, including a Romano-British settlement at Weston Farm (MLI20336-), undated cropmarks near Weston Farm (MLI20345), and a cropmark settlement of possible prehistoric or Romano-British date at Weston (MLI90793). In addition, examination of satellite imagery indicates that cropmarks recorded to the north appear to continue towards the proposed development area. The proximity and apparent continuation of these cropmark features indicate potential for associated buried archaeological remains, particularly of prehistoric or Romano-British date, to extend into and survive within the proposed development site.

The proposed development comprises 'Use of land for the parking of private motor vehicles and domestic trailers.'. The proposed development groundworks and any temporary works associated with the development (including landscaping, drainage/services connections and BNG planting) will have a significant impact on any surviving archaeological remains, resulting in total or partial loss, if present.

As mentioned above, there is potential for development on this site to have an impact on buried remains that should be recorded prior to their destruction in accordance with Policies HE10 and HE11 of the NPPF. There is archaeological potential, and we do not possess evidence that previous limited development activity truncated possible present heritage assets. The presence of existing hardcore and previous ground disturbance should not be taken as evidence that archaeological remains are absent or have been comprehensively truncated.

We recommend that if permission is granted, there be an archaeological condition for a mitigation strategy to effectively deal with this site. This will initially comprise but may not be limited to a continuous archaeological monitoring (watching brief) of the site during all groundworks. This will enable any remaining archaeology which currently survives on this site to be properly assessed and recorded prior to their alteration or destruction.

This should be secured by South Holland District Council's standard conditions AR01, 02 and 03. This is in accordance with Policies HE5 and HE10 of the National Planning Policy Framework and Policy 29 of the South East Lincolnshire Local Plan.

Updated Comments, dated 23/09/26

The development is situated within an area of high archaeological potential as recorded in the HER (Historic Environment Record). Several archaeological assets are recorded within only 200 metres of the proposal, including a Romano-British settlement at Weston Farm (MLI20336-), undated cropmarks near Weston Farm (MLI20345), and a cropmark settlement of possible prehistoric or Romano-British date at Weston (MLI90793).

In addition, examination of satellite imagery indicates that cropmarks recorded to the north appear to continue towards the proposed development area. The proximity and apparent continuation of these cropmark features indicate potential for associated buried archaeological remains, particularly of prehistoric or Romano-British date, to extend into and survive within the proposed development site.

The retrospective application is not supported by sufficient archaeological information to establish whether the unauthorised groundworks have affected or resulted in the loss of buried archaeological remains, or to establish their significance and extent. In the absence of an appropriate archaeological assessment and evidence that any archaeological remains affected by the works have been appropriately investigated and recorded, the Local Planning Authority is unable to determine the archaeological harm arising from the development, contrary to Policies HE5 and HE10 of the National Planning Policy Framework and Policy 29 of the South East Lincolnshire Local Plan.

SELCP Ecologist

Thank you for consulting us on this application. We have reviewed the proposals and have no ecological concerns to raise at this time; therefore, we have no objections.

Environmental Protection - Noise

No comments.

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, three letters of objection have been received, albeit two are from the same address.

These can be summarised as:

- Works are outside of defined residential curtilage
- Site has historically not featured hardcore
- Nature of actual use is inconsistent with proposed use
- Business is operating from site
- Vehicular access is unsafe
- Absence of a swept-path analysis and visibility splays
- Infrastructure, such as utility poles and hydrants, are located adjacent to/ above access
- Insufficient site drainage
- Pollution from HGV use
- Highlights comments of the IDB
- Absence of archaeological assessment
- Concern that there would be more than 1 HGV
- Roads in the area are in poor condition
- Restriction on personal use
- Vibrations cause disturbance

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, 2026 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Principle of Development

Policy Context

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 lies outside of any settlement boundary, as outlined in the SELLP. The definition of "settlement" is found within Annex B of the NPPF, reading as follows:

"Settlement: Includes cities, towns, villages and other predominantly built-up areas, including land which is allocated or has permission for development which will form part of the built-up area once the development is complete. This includes areas defined as a settlement in the development plan (whether using defined settlement boundaries or equivalent terms, or criteria for identifying settlement extents where boundaries have yet to be defined). Settlements do not include hamlets and scattered groups of houses located outside predominantly built-up areas, unless specifically defined as a settlement in the development plan. For the purpose of this Framework they also exclude villages which lie within and are defined as part of the Green Belt in the development plan."

The Framework is clear that settlements which are defined in a Local Plan would constitute settlements for the purposes of the NPPF. It is also clear that settlements would not include hamlets or scattered groups of houses. On this basis, it is considered that the settlement boundaries outlined in the SELLP are still wholly applicable here, and that the site should be considered as an outside of settlement location.

Policy S3(1) of the NPPF states:

"Decisions on development proposals should apply a presumption in favour of sustainable development. This means:

- a. Policy S4 in this Framework should be applied when considering development proposals within settlements;
- b. Outside settlements, policy S5 should be applied"

As previously outlined, the site is outside of a defined settlement limit, and therefore, Policy S5 is relevant. This states:

"Only certain forms of development should be approved outside settlements. These should be approved, unless the benefits of doing so would be substantially outweighed by any adverse effects, when assessed against the national decision-making policies in this Framework".

Policy S5(1) proceeds to outline circumstances where a proposal for development outside of a settlement would be permissible. These are as follows:

- "a. Development for: agriculture, horticulture and forestry; outdoor sport and recreation; allotments; cemeteries and burial grounds; mineral extraction and processing; engineering operations and infrastructure (including for transport, energy, water and telecommunications); roadside facilities in accordance with policy TR5; national defence and security; or which is solely for nature conservation, restoration and/or enhancement;
- b. Development for rural businesses and services, including tourism, where a location outside settlements is shown to be necessary;
- c. The reuse, extension, alteration or replacement of an existing building, provided that the existing building is of permanent and substantial construction, is lawful in planning terms, and any extension or alteration will not result in a disproportionate increase in size compared to the existing building . In the case of proposals for a replacement building, it should be for the same use and not disproportionately larger than the one it replaces;
- d. The redevelopment of previously developed land (including a material change of use to residential or mixed-use including residential);
- e. Limited infilling within groups of houses;
- f. An exception site as provided for in policy HO10, or development brought forward under a Community Right to Build Order or Neighbourhood Development Order;
- g. Development which would address an evidenced unmet need for gypsy, traveller or travelling showpeople accommodation, provided it meets the criteria in policy HO12;
- h. Residential and mixed-use development which would:
 - i. Be within reasonable walking distance of a well-connected station (applying the definitions in the glossary at Annex B);
 - ii. Be physically well-related to the station or the settlement within which the station is located;
 - iii. Be of a scale which can be accommodated taking into account the existing or proposed availability of infrastructure; and
 - iv. Not prejudice any proposals for long-term comprehensive development in the same location.
- i. The development of land allocated for that purpose in the development plan (where this lies outside settlements); and
- j. Development which would address an evidenced unmet need (including, but not limited to, development proposals involving the provision of housing where the local planning authority cannot demonstrate a five year supply of deliverable housing sites or scores below 75% in the most recent Housing Delivery Test), and where the development would:
 - i. Be physically well-related to an existing settlement (unless the nature of the development would make this inappropriate) and be of a scale which can be accommodated taking into account the

existing or proposed availability of infrastructure; or
ii. Comprise major development for freight and logistics purposes which accords with policy E3."

Analysis

The description of development, agreed with the applicant and which paraphrases the description provided in the application form is "use of land for the parking of private motor vehicles and domestic trailers". The description of development is clear in that the proposal relates to private vehicles and is in essence domestic in nature.

It should be noted at this time that the Permitted development rights for householders: technical guidance defines curtilage as "land which forms part and parcel with the house. Usually it is the area of land within which the house sits, or to which it is attached, such as the garden, but for some houses, especially in the case of properties with large grounds, it may be a smaller area." This definition is clear that not all land in the ownership of an Applicant is residential by default.

It has been stated by the Applicant that the site is within the residential curtilage. No evidence has been provided to support this. Applications H22-0146-03 and H22-0058-90 defined a residential curtilage for Elderberry Lodge. That residential curtilage did not include the application site. Moreover, Google Earth imagery from 2024, as well as imagery pre-dating this, show no evidence of residential use on the application site. Within this historic aerial imagery, the site is grassland. Hedges surround the residential property of Elderberry Lodge, which align with the aforementioned historic planning applications.

During their site visit, it was noted by the Case Officer that a clear dividing line runs between the dwellinghouse and the application site. A large, mature hedge runs between the residential property and the application site. Access to the application site is taken from a separate point, with a clear separation between the two plots.

Moreover, the submission of a Full Planning Application, and the description of development provided, are both implicitly of a change of use of the land, which therefore, implies the land is not currently residential.

The Applicant has provided no information to support their claim that the land is within the residential curtilage of Elderberry Lodge. On the balance of probabilities, and on the basis of the information available to the Council, the site is not considered to be within the residential curtilage of the dwellinghouse.

The land historically appears to have been paddock land. On that basis, the proposal is essentially seeking to further domesticate the land. The proposal can therefore be seen as the change of use of this land.

The proposal would not constitute a form of development listed in Policy S5. In these circumstances, Policy S5(4) states:

"Development proposals which do not fall within one of the categories set out in this policy should only be approved in exceptional circumstances, where the benefits of the proposal would substantially outweigh the adverse effects, including to the character of the countryside and in relation to promoting sustainable patterns of movement."

The proposal would therefore not be supported by Policy S5, and would only be permissible where the benefits of approving the development would substantially outweigh the adverse effects.

In any event, the provisions of Policy 1 of the SELLP would still be relevant here. 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."

Appeal decision APP/A2525/W/24/3356622 is clear that developments that extend the domestic curtilage must be assessed against Policy 1 and must demonstrate need or benefits in line with Policy 1 in order to be acceptable.

No case for the need for the change of use has been provided. The dwellinghouse benefits from a large parking area to its front, which should be sufficient for the majority of the residential needs. The applicant has alluded to the keeping of several vehicles on site, including larger vehicles such

as HGVs; however, it is not considered that the keeping of these vehicles would necessarily warrant the extension of the residential land. The keeping of HGVs on the site, from the information provided, is not necessary from a planning perspective and appears to be as a result of the lifestyle choices of the Applicant. There is nothing before the Council to suggest that alternative arrangements would not be tenable.

On this basis, it is considered that need for the extension has not been adequately demonstrated. The proposal would therefore be required to demonstrate suitable benefits to the area, in line with Policy 1.

It is considered that all benefits emerging from the parking area would be private and that there would be no benefit to the wider area resulting from the change of use. Policy 1 is clear in this regard, in that there must be wider sustainability benefits to the area. The proposal would not enhance the biodiversity of the site, and would provide no community facility. There are therefore considered to be no public benefits arising from the change of use.

As such, the proposal is considered to be contrary to Policy 1 of the SELLP and Policy S5 of the NPPF, and is unacceptable in principle accordingly.

Employment Land

A resident has objected, stating that the land is used for commercial purposes. Whilst this is noted, the application is explicitly for domestic purposes. On that basis, it is not considered appropriate to assess the proposal as a commercial unit.

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

Section 14 of the NPPF, "Achieving well-designed places", outlines that planning decisions and policies should "promote high quality, healthy, inclusive and sustainable places".

Paragraph 1 of DP3 outlines that "development proposals should respond to their context (the history, character and features of their site and its setting), so that they integrate with and enhance their surroundings; such as through the arrangement of development plots and buildings, the use of materials and architectural features, and the restoration, reuse and integration of heritage assets".

In order to create well-designed places, Paragraph 2 outlines that proposals should reflect seven key principles, as appropriate to the nature of the development and its location. These are: liveability, climate, nature, movement, built form, public space, and identity.

Paragraph 3 of DP3 is explicit that proposals which conflict with paragraph 1, the relevant aspects of paragraph 2 of DP3, or relevant development plan policies and guidance, should be refused. Conversely, substantial weight should be given to compliance with relevant development plan policies when assessing the design quality of proposals.

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.

There is a fundamental conflict between the more urban parking area and the rural nature of the area. The proposal represents the increased domestication of the land, whilst also weakening the rural character through the addition of a more urban feature. The proposal therefore fails to reflect the existing character of the area, creating a degree of conflict with Policy DP3(1) of the NPPF.

Nevertheless, the proposal, by virtue of its nature, is low-lying. It is well screened from the road.

When travelling along Broadgate, one would not immediately notice the change. Therefore, whilst there is a degree of conflict with the relevant policies in principle, the actual level of impact is limited.

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 SELLP and Section 14 of the NPPF.

Impacts Upon Resident Amenity

DP3 of the NPPF outlines that development should create places that are safe, inclusive, and accessible and which promote health and well-being, with a focus on promoting liveability.

Likewise, Policy P3(1) outlines that development proposals should be appropriate for their location, taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, whether these effects are on or off-site. This point is expanded upon in P3(2) which states all development proposals should "provide healthy living conditions for occupiers and users in terms of adequate access to light and avoiding exposure to levels of air, noise, artificial light or other sources of pollution which could have an unacceptable adverse effect on health and the quality of life".

Due to the relative isolation of the plot, the amenity impacts are limited. Impacts from noise created by the movement of vehicles are noted; however, comparable effects could occur through the use of the plot for agricultural purposes or the keeping of vehicles on the front garden.

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 Sections 14 and 17 of the NPPF and Policies 2 and 3 of the Local Plan in terms of impact upon residential amenity.

Highway Safety and Parking

Section 15 of the NPPF is titled 'Promoting sustainable transport'. Within this, Policy TR6(4) advises that "development proposals should be refused if they would have a severe adverse impact on the transport network (in terms of capacity and congestion, including cumulative impacts), or an unacceptable impact on highway safety; taking into account any mitigation measures proposed as well as any wider network improvements, including measures to support sustainable patterns of movement. This applies both during the construction phase and following completion."

Policy TR3 of the NPPF outlines that development should be located where it can support sustainable patterns of movement, enable good accessibility for different users and make the most of existing and proposed transport infrastructure. The policy outlines a series of principles to achieve these aims, with the expectation that all proposals should, so far as is relevant, conform to them. Policy TR3(2) is explicit that "The Connectivity Tool should be used alongside other relevant quantitative or qualitative evidence in assessing the connectivity of particular locations proposed for development."

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.

Policy 36 of the SELLP, in conjunction with Appendix 6, 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. The proposal would contribute to the parking on the site; however, adequate parking is already present to the front of the site. Accordingly, weight is not given in favour of this element.

Assuming all movements are domestic in nature, as per the provisions of the application, it is not anticipated that there would be an unacceptable impact on highway safety. This has been affirmed

by the comments of the Highway Authority.

The proposal would therefore be acceptable and would not have an unacceptable adverse impact on highway safety in accordance with Policies 2, 3, 33 and 36 of the SELLP, as well as Section 15 of the NPPF.

Flooding Considerations

Section 18 of the NPPF relates to "Managing flood risk and coastal change". It requires a sequential approach to flood risk, in accordance with the decision making policies contained within this section. Policy F7 is clear that "development proposals should not present a risk from flooding to potential occupiers, users, or visitors, and should not increase flood risk elsewhere."

Policy F5(1) outlines that:

"The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Where the test applies, development proposals should not be located in areas at risk of flooding where alternative sites, appropriate for the development, are reasonably available in areas with a lower risk of flooding. The area to which the test is applied should not be greater than the anticipated catchment of the development in terms of its likely occupiers or users."

Paragraph 3 expands on this, stating that:

"The strategic flood risk assessment covering the area of the proposed development and the Flood Map for Planning should provide the evidential basis for applying the sequential test."

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.

As explicitly stated within Policy F5(3), the SFRA should be used in conjunction within the Environment Agency's maps to assess the sequential test. Within the SFRA the site is classed as low hazard, with a hazard depth of 0.25m

Policy F5(2) of the NPPF lists circumstances where the sequential test would not need to be applied. It is not considered that any of these circumstances are met. As previously outlined, it is not considered that the proposal necessitates the chosen location, as it would represent unjustified development within the Countryside.

The use of a site as a car park is considered "less vulnerable" within Annex F of the NPPF. There is no caveat within the NPPF to state that less vulnerable development should not be subject to the sequential test.

On that basis, the sequential test should be applied. No sequential test has been provided by the Applicant. In any event, the SFRA maps show large sections of land at a lower risk of flooding within the immediate area, such as within the nearby settlement of Weston Hills or in the Countryside across the road from the development site.

The proposal has therefore failed the sequential test. Whilst the actual use itself would not be significantly impacted by the impacts of flooding, the rules of the NPPF are clear and are applicable here. Therefore, the proposal would be contrary to Policy F5 of the NPPF.

Overall, when considering the development on balance, it is considered that the proposal conflicts with Policies 2, 3 and 4 of the SELLP and the intentions of the NPPF with regards to flood risk.

Drainage

In addition to the considerations relating to flood risk discussed above, Policy 4 of the SELLP and Section 18 of the NPPF also concern site drainage. Policy F8(1) of the NPPF states:

"Development proposals which could affect drainage on or around the development site should incorporate sustainable drainage systems to control flow rates and reduce volumes of runoff, in ways which are proportionate to the nature and scale of the proposal. The systems employed should provide multifunctional benefits where possible, facilitating improvements in water quality, biodiversity and amenity."

No drainage strategy has been provided. That being said, the site is surrounded by greenfield land. On that basis, there is ample space for additional run off to be drained into the landscape without increasing the risk of flooding elsewhere. The site itself is not designated as at risk of surface water flooding within the Environment Agency mapping.

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.

The site is less than 0.2ha and is therefore exempt from the requirements of net gain.

Archaeology

Part C of Policy 29 concerns "archaeology and scheduled monuments". This Policy outlines five assessment points for an application which may impact upon archaeological remains, the first three of which are particularly relevant here:

- "1. Proposals that affect archaeological remains, whether known or potential, designated or non-designated, should take every reasonable step to protect and, where possible, enhance their significance.
2. Planning applications for such development should be accompanied by an appropriate and proportionate assessment to understand the potential for and significance of remains, and the impact of development upon them.
3. If initial assessment does not provide sufficient information, developers will be required to undertake field evaluation in advance of determination of the application. This may include a range of techniques for both intrusive and non-intrusive evaluation, as appropriate to the site."

In this instance, the historic environment record comes from the Lincolnshire Historic Environmental Record (LHER). The LPA's interpretation of the information within the LHER is informed via consultation with the Historic Places Team of Lincolnshire County Council (HPT), who maintain the LHER.

The public information relating to the LHER is taken from the Lincolnshire Heritage Explorer (LHE).

The LHE is not a comprehensive database, and the information contained within it is constantly evolving. The LHE webpage is explicit that "the information provided through the Lincolnshire Heritage Explorer is only part of that held by the LHER, and will not be sufficient on its own to inform the planning process".

Sites of archaeological interest can broadly be separated into two categories: designated assets and non-designated assets. Designated assets, such as scheduled monuments, are far rarer and only occur in places where the requirements of the Ancient Monuments and Archaeological Areas Act 1979 can be applied. These are sites which have a pre-established significance to archaeological understanding at a wider national level, and must be designated by the Secretary of State as such. Accordingly, such sites are rare and are often designated after the scope of the asset has been established. The site in this instance is not designated.

It has been stated by the relevant consultee from the HPT, that the site is in an area of high archaeological potential. The site is within close proximity to several known sites of Romano-British archaeology, identified in the HER and in the comments of the Historic Environment Officer. On this basis, the site can be considered a site of archaeological interest, and a potential non-designated heritage asset, in line with Policy HE7 of the NPPF.

In such circumstances, Policy HE5 of the NPPF is clear that:

(1)"Development proposals affecting heritage assets should be accompanied by an assessment of the significance of the assets affected (including any contribution made by their setting) and of the potential effect of the proposal on their significance. The level of detail should be proportionate to the assets' importance and no more than is necessary to understand the potential effect of the proposal on their significance. The relevant historic environment record should be referred to in making this assessment, and appropriate expertise employed where necessary."

"(5) Where a development proposal involves, or has the potential to involve, a heritage asset with archaeological interest, an appropriate desk-based assessment should be undertaken and, where necessary, a field evaluation. These should be used to help understand the asset's significance and the potential effect of the proposal on this, which should inform the design, mitigation and implementation of the development."

No desk based assessment has been provided in this instance, and no further information relating to archaeology has been provided by the Applicant. The proposal would therefore be contrary to HE5 of the NPPF.

The Historic Environment Officer had recommended conditions in order to mitigate any impact, including a watching brief. However, seeing as this application is retrospective, the conditions requested cannot be applied in this instance. In any event, the retrospective nature of the application would mean that any near surface archaeology may have been impacted already, and the conditions would be ineffective as a result. This conclusion aligns with the revised comments made by the Historic Environment Officer.

Accordingly, it has not been demonstrated that the development would not harm a site of archaeological potential. As such, Policy HE7 of the NPPF is relevant, which states:

"Where a development proposal would harm the significance of a non-designated heritage asset, this should be weighed against the benefits of the proposal and a balanced judgement made, having regard to the scale of any harm or loss and the significance of the non-designated heritage asset."

The proposal therefore may harm the significance of a non-designated heritage asset. The benefits arising from the proposal, as outlined above, are considered to be minimal. On that basis, the proposal is considered contrary to Policy HE7 of the NPPF. This conclusion, and the identified policy conflicts, align with the comments received by the Historic Environment Officer.

For the above reasons, the proposal is considered contrary to Section 20 of the NPPF. Weight is given against the proposal as a result.

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 represents unjustified and inappropriate development in the countryside. The use of the land proposed would be fundamentally contrary to the relevant policies of the NPPF and SELLP. The proposal would also fail the sequential test, although the weighting afforded this point must be seen in light of the actual vulnerability of the use.

The site is of potential archaeological interest. A desk based study has not been provided to help understand the asset's significance or the potential effect of the proposal on this. Accordingly, the proposal would be contrary to HE5 of the NPPF. In light of the lack of evidence to the contrary, it can be concluded that less than substantial harm to a non-designated heritage asset would occur. Said harm is not outweighed by the minor benefits arising from the scheme. The proposal would therefore be contrary to HE7 of the NPPF also.

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 and 29 of the SELLP, as well as Sections 4 and 20 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.