DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	**H23-1089-24**	**Applicant:**	**Mr D Ford**
Proposal:	Erection of 2 dwellings comprising of 2 x detached 2-storey dwellings and 2 x double garages involving the demolition of the existing agricultural buildings and follows a Part Q Approval under reference H23-0766-24		
Location:	Carter'S Farm Oxcroft Bank Shepeau Stow		
Terminal Date:	13th March 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
04	Approach to Flood Risk
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
28	The Natural Environment
30	Pollution
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

National Guidance

Representations:

	Object	Support	No Obj.	Comments

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

CASE OFFICER ASSESSMENT

Proposal

The proposal seeks full planning permission for the erection of two dwellings and two detached garages, following the demolition of the existing agricultural buildings within the site. Vehicular access is proposed to be taken from Oxcroft Bank which is to the west of the site. The proposed dwellings feature two storeys with gable end roof forms. The dwellings feature a single storey front extension, and plot 1 also features a two-storey rear extension.

Site Description

The building is part of a farmyard located on the eastern side of Oxcroft Bank, Shepeau Stow. Nook House and Nods Nook Barn is located to the north of the site, and there are associated equestrian facilities to the north-east. The site is otherwise mostly surrounded by agricultural land.

Planning History

Within the Application Site:

H23-0345-22: (Prior Approval Application) Change of Use of Barn into Residential Dwelling - refused 13 May 2022

H23-1132-23: (Prior Approval Application) Conversion of three agricultural barns into four residential dwellings involving the demolition of a fourth barn - prior approval refused 19 February 2024

H23-0522-24: (Prior Approval Application) Convert 3 agricultural barns into 4 residential dwellings including the demolition of a fourth barn - refused 21 August 2024

H23-0766-24: (Prior Approval Application) Proposed conversion of existing agricultural building to form 2 new dwellings - approved 11 November 2024

Land to the West:

H23-0943-22: (Prior Approval Application) Change of use of barn to residential dwelling - refused 21 November 2022

H23-1184-22: (Prior Approval Application) Change of use of barn to 2 residential dwellings - re-submission of H23-0943-22 - approved 16 February 2023

H23-0407-23: (Full Application) Demolition of existing barn and erection of 2 detached dwellings - approved 10 October 2023

Consultation Responses

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

Whaplode Parish Council: No comments.

Historic Environment Officer: The proposal is unlikely to have an impact on significant archaeological remains. Consequently, no further archaeological input is necessary for this application.

Environmental Protection: No comments in terms of noise and odour. A condition is recommended to monitor contamination risks within the site which would require an assessment if contamination is found within the site.

South Holland Internal Drainage Board: We recommend a drainage strategy is provided for the site. If the applicant proposes to discharge surface water to a watercourse, consent would be required under Byelaw 3. I note that the applicant intends to treat foul waste using a package treatment plant, however I cannot see that the applicant has indicated how they intend to dispose of treated foul water from this development. If the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3. There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Lincolnshire County Council - Highways and SUDS: Parking demonstrated is acceptable for the size of the dwellings. The access will be wide enough to allow two-way traffic and it will be upgraded to Lincolnshire County Council Specification. Highway condition 13 and highway informatives 03 and 08 are recommended.

Cllr A C Beal: No response received.

Cllr P A Redgate: No response received.

Lincolnshire Wildlife Trust: No response received.

Lincolnshire Bat Group: No response received.

Ecology Officer: No response received.

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, one letter of representation has been received. The following key matters are raised within the response:

-Plot 1 is close to the permitted and long-established equestrian hardstanding and muck heap. It is likely that the muck heap would have a significant impact on the residential amenity of any future residents of plot 1, principally through the smell of manure. If this development is allowed, we would require the LPA and developer to accord with the agent of change principle. Plot 1 (front garden) is immediately by the muck heap meaning the residential amenity within the plot would be significantly impacted again by smell and potentially flies.

Key Planning Considerations

Development Plan

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

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

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

There are no adopted Neighbourhood Plans for the area within which the site is located.

The main issues and considerations in this case include the following:

-Principle of Development;
-Design and Visual Impact;
-Impact on Amenity;
-Highway Safety and Parking;
-Flood Risk; and
-Biodiversity.

These matters are assessed in turn below.

Principle of Development

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

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

The site is outside any defined settlement boundary. The nearest settlement to the site is Shepeau Stow, for which the settlement boundary is approximately 250m to the north-east of the site. The site is therefore within the countryside in planning policy terms.

Paragraph 84 of the NPPF sets out that planning decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:

"a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
c) the development would re-use redundant or disused buildings and enhance its immediate setting;
d) the development would involve the subdivision of an existing residential building; or
e) the design is of exceptional quality, in that it:
i. is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
ii. would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area."

Part D of Policy 1 of the South East Lincolnshire Local Plan (2019) sets out that within the countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

It has not been demonstrated that residential development is necessary in this location; for example, in conjunction with agriculture or other rural based business. Moreover, the site is physically divorced from Shepeau Stow and larger service settlements such as Gedney Hill, Holbeach and Spalding. In the absence of footways, and given the distances involved, it would be difficult to access these settlements for the day to day needs of the occupants without use of a private car. Consequently, the proposal does not accord with Policy 1 and would not normally be considered a suitable site for new housing.

The application is accompanied by a Design and Access Statement, within which section 2.5 'Principle' sets out the proposed justification for the dwellings. This section sets out that as the site has prior approval consent for two dwellings under reference H23-0766-24, this consent represents a fallback position "which should be afforded weight". The statement then sets out that the following:

"existing buildings are not listed buildings, and the site is not within a Conservation Area and therefore no harm is caused by the loss of these buildings. With this in mind, the principle of the proposal is acceptable."

No reference to policy is made and as such the statement does not refer to the settlement hierarchy, or the most relevant policies for the proposals. Whilst it is agreed that the proposal would not cause harm to any designated heritage assets, this does not mean that the principle of the development is acceptable. Further explanation for the proposals has been sought from the applicant's agent; however, it was not considered that the additional information that was provided sufficiently justified the proposed development.

Class Q Fallback - Betterment

Prior approval has been granted to change the use of the existing agricultural building (Barn 1) within the site into two dwellings under reference H23-0766-24 on 11 November 2024. This consent related to the building within the site that is proposed to be demolished under the current proposals. It would be necessary to demolish Barn 1 to implement the current proposals, as a garage building and part of the driveway are proposed where the building is currently located. This would mean that the prior approval could not be implemented.

Caselaw has demonstrated that Class Q consents are a legitimate fallback position when considering alternative proposals for development of the same site. The relevant legal principles relating to fallback were set out in R v Secretary of State for the Environment and Havering BC (1998) EnvLR189. In that case Mr Lockhart-Mummery QC, sitting as a Deputy High Court Judge, accepted submissions that there were three elements to the fallback test:

"First whether there is a fallback use, that is to say whether there is a lawful ability to undertake such a use; secondly, whether there is a likelihood or real prospect of such occurring. Thirdly, if the answer to the second question is "yes", a comparison must be made between the proposed development and the fallback use."

The notion of the Class Q fallback position was also comprehensively dealt with at the landmark Court of Appeal case, Mansell vs Tonbridge and Malling Borough Council (2017). This case established that that where there is demonstrably a realistic prospect of a permitted development scheme being implemented, and where an alternative proposal would normally conflict with the development plan insofar as it being an unsuitable location for housing, the potential for the fallback position to outweigh that conflict must be considered by the local authority.

Therefore, It stands to reason that, where the alternative new-build proposal offers either an enhancement to the setting, a reduction in density or betterment in overall development, when compared to the fallback, the development could (and perhaps should) be allowed to proceed.

The local authority considers that there is a realistic prospect that the Class Q conversion could take place. This is evident through the consent that has recently been granted and the developer has three years to complete the development.

Barn 1 features a utilitarian appearance with metal cladding. The appearance of the building is typical for an agricultural building, and it is not considered that the structure contains any distinctive features that are of particular merit. Notwithstanding this, the visual appearance of the barn conversion was considered to be acceptable and, albeit the building itself is not a significant merit, would represent and maintain a rural context through the conversion scheme.

The proposed dwellings under the current application, comprising two new build dwellings, are proposed to feature red brickwork and timber cladding. The dwellings would feature a fairly pleasant design that is more typical for residential development; although, the design is not considered to be of substantial note. The dwellings would be taller than the existing barns and the overall built form would notably increase. For example, the tallest part of the barns measures approximately 7m in height, whereas the proposed dwellings would measure 9.2m in height.

Whilst the visual appearance of the dwellings would be acceptable in their own right, such as in an instance that the dwelling was located within an appropriate and sustainable location; however, this is not considered to represent sufficient justification for the proposed dwellings within the countryside. An acceptable design was approved for the conversion of Barn 1 within the site, and it is not considered that the design, scale or appearance of the proposed two dwellings would represent a scheme of such quality or represent such a substantial improvement/'betterment' as to justify a departure from Policy 1 within the Local Plan.

Beyond this, the submission fails to provide a clear justification or evidence of betterment provided by the proposal.

As such, it is considered that, notwithstanding the extant permission and its resulting fallback consideration, whilst the proposed dwelling may provide some benefits, the proposal fails to provide a betterment that positively reflects the characteristics of the site or the character and context of the surrounding area and fails in this regard to provide a positive contribution to the appearance of the site compared to the fallback position.

The proposed development would therefore not accord with Policy 1 of the Local Plan and there is insufficient justification for the proposed dwellings within a relatively isolated and unsustainable location. The proposed development would also not accord with Paragraph 84 of the NPPF as it is not considered that the proposed dwellings would be justified under any of the relevant criteria.

The proposal is therefore not considered to be acceptable in principle and conflicts with policies 1, 2, and 3 of the South East Lincolnshire Local Plan and fails to accord with the provisions of the National Planning policy Framework, namely paragraph 84.

Design and Visual Impact

Paragraph 135 of the NPPF states that new development should function well and add to the overall quality of the area (including beyond the short term) and should be visually attractive as a result of good architecture and appropriate landscaping.

Policy 2 of the Local Plan outlines sustainable development considerations for development proposals, providing a framework for an operational policy to be used in assessing the sustainable development attributes of all development proposals. Furthermore, Policy 3 accords with the provisions of Section 12 of the NPPF, in that it requires development to comprise good design; identifying issues that should be considered when preparing schemes so that development sits comfortably with, and adds positively to, its historically-designated or undesignated townscape or landscape surroundings.

The application seeks consent for two detached dwellings. The dwellings are referred to as Plot 1 and Plot 2 within the submitted plans. Plot 1 is positioned within the south-eastern area of the site, and Plot 2 is positioned to the north-west of Plot 1. Single storey garages are proposed in front of both of the dwellings. The dwellings share similar layouts and materials and therefore have a similar character. For example, the frontages of the dwellings mirror one another and the main differences between the plots are at the rear as plot features a rear extension, whereas plot 2 does not.

Plot 1 measures 14m by 7.5m, and there is a single storey front extension which measures 4.5m by 5.2m, and a two-storey rear extension which measures 5.1m by 4.5m.

Plot 2 measures 14m by 7.5m, and there is a single storey front extension which measures 4.5m by 5.2m.

Both dwellings measure approximately 9.2m from the ground level up to their roof ridgelines. It should be noted that the dwellings that were approved under permission H23-0407-23 were proposed to measure 8.8m up to their ridgelines. As such, the proposed dwellings under the current

application would be of a similar scale. Furthermore, the proposed dwellings under the current application share similar materials and appearances as the dwellings that were approved under permission H23-0407-23.

The proposed materials for both dwellings include red facing brickwork, red pantiles, timber board cladding and uPVC window and door frames.

The visual appearance of the proposed dwellings is acceptable, however, as set out above, this is not considered to represent sufficient justification for the proposed dwellings within the countryside.

The design and visual impact of the proposed development is acceptable; however, as set out above, it is not considered that the acceptable appearance of the dwellings would represent such a substantial improvement over the approved barn conversion to justify a policy departure.

Impact on Amenity

Paragraph 135 of the NPPF states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

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

Nook House is located to the north of the site, fronting Oxcroft Bank. Nods Nook Barn is also located to the north of the site, to the rear of Nook House. Associated equestrian facilities are located around these properties. The site is otherwise surrounded by agricultural land.

Planning permission was granted for the demolition of barns and the erection of two dwellings on land next to the site, next to Oxcroft Bank, under permission H23-0407-23. Although these dwellings have not yet been constructed, the permission is still extant and it is therefore necessary to consider the potential relationship between the approved dwellings and the proposed dwellings under the current application. There is approximately 15m between the rear elevation of one of the approved dwellings from permission H23-0407-23 and the side elevation of plot 2. The side elevation only contains two narrow windows at the ground floor level. These windows are connected to habitable rooms, however, there is a boundary fence comprising 1.8m high close boarded timber between the properties. This should reduce the potential for overlooking between the dwellings. The dwellings would also not overshadow each other. The relationship between the proposed dwellings and the approved dwellings is therefore acceptable.

In terms of the relationship between plots 1 and 2, no windows are proposed on the side elevation of plot 2, except on the side elevation of the front extension. Therefore, no windows would look directly onto each other, and there is a suitable separation distance between the front extensions (approximately 22m).

There is approximately 25m between the front elevation of plot 2 and Nods Nook. This is considered to be a suitable separation distance to prevent an unacceptable degree of overlooking. Similarly, neither of the proposed dwellings would face directly onto Nook House, which is the other nearest dwelling to the site.

The proposed dwellings would feature ample private amenity space and internal living space and as such this is not a concern.

The public representation sets out concerns that there is a muck heap on land close to the site which could result in an unacceptable impact on the amenity of future occupants in terms of odour. Whilst the proximity of the muck heap might cause some disturbance to future occupants, it is not considered that this impact would be so adverse as to warrant refusing the application. The site is within a rural area where agricultural practices often result in a degree of disturbance such as odour.

As detailed above, the proposed development would not result in an unacceptable impact on the residential amenity of neighbouring dwellings or future occupants. As such, the proposal is considered to accord with the provisions of the Section 12 of the NPPF and Policies 2 and 3 of the Local Plan.

Highway Safety and Parking

Paragraph 116 of the NPPF sets out that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe, following mitigation.

Policy 2 of the Local Plan sets out that proposals requiring planning permission for development will be permitted provided that sustainable development considerations are met, specifically in relation to access and vehicle generation. Policy 3 sets out 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 36 and Appendix 6 of the Local Plan, set out minimum vehicle parking standards. The standards require at least two spaces for dwellings of up to three bedrooms, and three spaces for dwellings with four or more bedrooms.

The principle of two residential units has already been established. The form of development proposed requires the formation of a new vehicle access crossing in the centre of the site's frontage. This would not be in a position where visibility would be obstructed for drivers emerging from the site into the highway and would therefore be acceptable. The existing vehicle access is to be removed and returned to grass verge.

Lincolnshire County Council's highways team have not set out any objections to the proposed development. The team consider that the access is wide enough to allow for two-way traffic movements and that there is sufficient room for parking and turning within the site. Highway condition 13 and highway informatives 03 and 08 are recommended.

The proposal would therefore be acceptable in terms of highway safety and would therefore accord with Local Plan Policies 2, 3 and 36, and Section 9 of the NPPF.

Flood Risk

Section 14 of the NPPF sets out guidance relating to how local authorities should assess and determine applications which are subject to flood risk concerns.

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 Local Plan allows for certain types of development within Flood Zones 2 and 3 in instances where specific criteria are met. The site is not within an identified hazard area as identified by the SFRA.

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

The NPPF requires the application of a sequential test to ensure that new development is in areas with the lowest probability of flooding. It is acknowledged 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. Paragraph 8.3.6 of the SFRA sets out that the search area for the sequential test should be the whole of the council area unless the functional requirements of the development justify a reduced search area.

It is recognised that the vast majority of the council area is within Flood Zone 3 and there are limited opportunities for new housing within lower risk flood areas. There is a fallback position, as prior approval has previously been granted for a residential conversion of the existing building within the site to two dwellings. It is therefore considered that the sequential test is passed.

In terms of the exceptions test, Paragraph 178 of the NPPF requires the following to be demonstrated:

"a) the development would provide wider sustainability benefits to the community that outweigh the

flood risk; and
b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall."

The submitted FRA sets out that although the site is within Flood Zone 3, the probability of this development flooding from localised drainage systems is low. Failure of Fleet Fen Pumping Station could lead to an increased level of risk at the site. The site is not within an area with a hazard rating as identified within the SFRA. The submitted FRA sets out recommended flood risk mitigation for the proposed dwellings. This mitigation includes the recommendation that the finished floor level of the dwellings should be set at least 0.3m above the surrounding ground level, and that there should be at least 0.3m of flood resilient construction above the finished floor level. It is therefore considered that the exception test is passed.

According to the applicant's agent, the proposed means of surface water drainage is via soakaways, which is a sustainable form of drainage. It is considered appropriate to secure further details of this through a condition. Foul drainage is proposed to be discharged via treatment plants located in the rear gardens.

It is therefore considered that the proposed development accords with Policy 4 of the Local Plan and the intentions of the NPPF in terms of flood risk.

Biodiversity

Section 15 of the NPPF promotes the conservation and enhancement of the natural environment. Paragraphs 187 and 192 set out that sites of biodiversity value should be protected. Paragraph 187(d) for instance sets out that planning decisions should provide net gains for biodiversity.

Policies 28 and 31 of the Local Plan ensure the preservation and enhancement of the natural environment and that suitable mitigation and adaptation to the climate crisis is in place. Policy 28 also requires proposals to provide a net gain in biodiversity.

Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) introduced the requirement for applications to establish a 10% Biodiversity Net Gain (BNG), demonstrated through standard units.

The application is supported by a Preliminary Ecological Appraisal (PEA) and a Biodiversity Net Gain (BNG) Assessment. No further surveys are recommended for protected species within the PEA. The BNG calculations set out that a gain of 32.84% in habitat units and 10.81% in hedgerow units can be achieved as a result of the proposed development. A condition requiring a biodiversity net gain plan to be submitted and approved is therefore considered to be appropriate and has been agreed with the applicant's agent.

The proposed development is therefore acceptable in terms of biodiversity. The proposal would therefore accord with Policies 28 and 31 of the Local Plan and Section 15 of the NPPF.

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.

In this case, it is necessary to undertake a planning balance exercise having regard to economic, social and environmental objectives. In economic terms, there would be short term economic benefits associated with the construction of the dwellings through the provision of employment opportunities. This is afforded limited weight. As there are limited opportunities for future occupants to access local services and facilities through sustainable means of transport, it is considered unlikely that future occupants of the dwelling could work locally. The economic benefits resulting from the proposal are therefore minor and are afforded limited weight in favour of the proposal.

In community terms, the proposal would make a contribution, albeit small, towards housing supply in the district. No affordable housing is proposed. Whilst the provision of some market housing is of benefit, the Council can demonstrate a 5YHLS and are able to demonstrate a sufficient supply in more sustainable locations. Furthermore, the consideration that the proposal is unstainable, in respect of locational terms, provides further consideration. likewise, the site could achieve the same

benefits as those proposed in this instance, through the Class Q conversion and as such, the benefits attributed to the two new builds, in an unsustainable location, are further limited. This is neutral in the planning balance.

In environmental terms, the proposed development would potentially provide a net gain in biodiversity. However, this is a statutory requirement and as such, cannot be given weight in this regard, given that this would be required in any event and as such, the biodiversity net gain would not (although illustrating an increase beyond 10%), in the main, be a benefit beyond that already required by policy or legislation.

The minor benefits associated with the proposed development would not outweigh the harm that would result from the conflict with Policy 1 of the Local Plan, by locating dwellings in an unsuitable location. Likewise, the development is not considered, as highlighted within the report above, to comprise a betterment to that of the extant permission given that it fails to reflect or comprise an appropriate form of development in relation to its rural and countryside context.

The proposed development would therefore undermine the purpose of the Local Plan and the development is considered to conflict with Policy 1 of the Local Plan and the provisions of the NPPF when viewed as a whole.

Additional Considerations

Public Sector Equality Duty

In making this decision the Authority must have regard to the public sector equality duty (PSED) under s.149 of the Equalities Act. This means that the Council must have due regard to the need (in discharging its functions) to:

A. Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Act.

B. Advance equality of opportunity between people who share a protected characteristic and those who do not. This may include removing or minimising disadvantages suffered by persons who share a relevant protected characteristic that are connected to that characteristic; taking steps to meet the special needs of those with a protected characteristic; encouraging participation in public life (or other areas where they are underrepresented) of people with a protected characteristic(s).

C. Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.

The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The PSED must be considered as a relevant factor in making this decision but does not impose a duty to achieve the outcomes in s.149. It is only one factor that needs to be considered, and may be balanced against other relevant factors.

It is not considered that the recommendation in this case will have a disproportionately adverse impact on a protected characteristic.

Human Rights

In making a decision, the Authority should be aware of and take into account any implications that may arise from the Human Rights Act 1998. Under the Act, it is unlawful for a public authority such as South Holland District Council to act in a manner that is incompatible with the European Convention on Human Rights. The Authority is referred specifically to Article 8 (right to respect for private and family life) and Article 1 of the First Protocol (protection of property).

It is not considered that the recommendation in this case interferes with local residents' right to respect for their private and family life, home and correspondence, except insofar as it is necessary to protect the rights and freedoms of others (in this case, the rights of the applicant). The Council is also permitted to control the use of property in accordance with the general public interest and the recommendation is considered to be a proportionate response to the submitted application based on the considerations set out in this report.

Conclusion

The proposed development would result in the provision of housing outside of the settlement boundary within the countryside. The 'tilted balance' is not engaged at the present time, which means that the development is in an unsustainable location, at the bottom of the settlement hierarchy. Whilst there are some benefits weighing in favour of the proposal, these do not outweigh the demonstrable harm of developing in the countryside in an unsustainable location.

Recommendation

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