DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-1272-25**	**Applicant:**	**Mr & Mrs R Balding**
Proposal:	Erection of 2 Houses with Garages		
Location:	Adj. Carlton Lodge Oxcroft Bank Shepeau Stow		
Terminal Date:	19th March 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
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 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

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	0	1
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

Description of Proposal

This is a Full planning application for the erection of two detached dwellings with attached garages. Each dwelling would be "L" shaped, arranged to form a front courtyard. The dwellings would mirror each other. One dwelling would be a self-build, the other a market dwelling.

The dwellings can be divided into two, a central main house and a lower limb. The dwellings would have a total length and width of 24.065m and 16.41m respectively. The main dwelling would measure 5.1m to the eaves, rising to a maximum height of 7.85m. The garage element would have an eaves height of 2.8m, rising to 6.7m at its apex.

The main house would be constructed of Vandersanden Old Farmhouse Bricks, while the eastern limb would timber clad. The roof of all elements would be clay terracotta pantiles.

Site Description

The site is located outside of any of the settlement boundaries outlined within the South East Lincolnshire Local Plan, 2019. It is located approximately 115m south of Shepeau Stow, on the site of a former agricultural nursery. These agricultural buildings have been recently demolished, leaving a concrete pad. Greenhouses are present to the east, with residential dwellings to the south. To the north and west are agricultural fields.

Relevant History

H23-0089-23 - Prior Approval - Conversion of agricultural buildings to form 5 dwellings - Withdrawn 20 March 2023.

H23-0335-23 - Prior Approval - Conversion of agricultural buildings to form 3 dwellings - Approval 26 May 2023.

H23-0717-23 - Full - Residential development (3 dwellings) involving the demolition of existing buildings - Approved 4 October 2023.

H23-0019-24 - S73 - Residential development (3 Dwellings) involving the demolition of existing buildings - approved under H23-0717-23. Modification of Condition 2 to allow amendments to previously approved plans - Approved 5 March 2024.

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:

Whaplode Parish Council

Support - no comment

SELCP Ecologist

Ecological Considerations:
-We request that a total of 2 integrated universal nest bricks (e.g., S Brick, Swift Nesting Brick, Manthorpe, Swift Bricks: The 'Universal' Nest Brick - by Dick Newell | CIEEM) are incorporated into the external fabric of one or both buildings. These should be located at a height of 4+ m metres, on the north or east elevations to avoid overheating, and grouped colonially where possible, in accordance with best-practice guidance such as British Standard BS 42021:2022. The bricks must be installed during the construction phase and retained thereafter for the lifetime of the development.
-We also request that one integrated bat box (e.g., Integrated / Built-In Bat Boxes, Integrated Eco Bat Box | The Nestbox Company) are added to each dwelling. These are required to enhance biodiversity.
-We will require the applicant to submit sufficiently detailed maps that indicate the proposed location of bird/bat boxes on-site.

BNG Comments and Notes to applicant:
- Overall, the biodiversity assessment and metric calculations appear rigorous, and we can have confidence in their conclusions. In this case the metric indicates that 10% mandatory net gain cannot be achieved on-site, and therefore the proposals require 0.07 area-habitat units and 0.02 watercourse units offsite. These will need to be secured pre-commencement and can be achieved via 2 routes:

1. Bespoke habitat creation/enhancement could be undertaken by the applicants on land they own elsewhere or in agreement with another landowner. To discharge the biodiversity gain condition the applicants would have to secure the appropriate habitat creation/enhancement by either entering a section 106 agreement with the local authority or through undertaking a conservation covenant with a responsible body pre-commencement.
2. The applicants could purchase the appropriate number of units from an oÃ?????¯-site habitat bank and evidence this to the authority pre-commencement. This can be achieved through the applicants contacting an oÃ?????¯-site unit provider, aka a habitat bank, (which has biodiversity units registered on the national gainsite registry) to arrange a contract for the applicant to purchase the necessary units from the habitat bank. The habitat bank then notifies the national gainsite register to allocate the specifically referenced units to the applicant. To discharge the general biodiversity gain condition, the applicant provides us with this reference information and evidence of the purchase (e.g. a receipt or copy of the contract with the habitat bank) along with the biodiversity gain plan that they must submit to us pre-commencement. These details are also recorded within a finalized version of the metric submitted with the gain plan. The authority can then independently confirm the unit transfer by checking the unit references against the national gain-site register and then approve the gain plan to discharge the Biodiversity Gain condition.
-We will require a Biodiversity Gain plan to be submitted pre-commencement as well as a finalised metric demonstrating how offsite units will be secured.

Conclusion:

There has been sufficient evidence provided to determine this application, as long as the mandatory 10% net gain is achieved through securing offsite units pre-commencement. We will require a Biodiversity Gain plan and finalised metric to be submitted pre-commencement.

Historic Environment Officer

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.

Environmental Protection

I request a standard land contamination condition be applied at this location.

South Holland Internal Drainage Board

Outline that Land Drainage Consent would be required from the board for the alteration of a watercourse.

Highway and Lead Local Flood Authority

"No Objection.

Comments:

Erection of 2 Houses with Garages - This site already benefits from a live planning application for three dwellings. The parking demonstrated is acceptable for the size of the dwellings. A new access to the public highway is required and the existing access will need to be stopped up. The proposal will not have an adverse impact on the public highway. As Lead Local Flood Authority, Lincolnshire County Council is required to provide a statutory planning consultation response with regard to drainage and surface water flood risk on all Major applications. This application is classified as a Minor Application and it is therefore the duty of the Local Planning Authority to consider the surface water flood risk and drainage proposals for this planning application.

Planning Conditions:
- In the event that permission is to be given, the following planning conditions should be attached:

Highway Condition 12
Within seven days of the new access being brought into use, the existing access onto Oxcroft Bank shall be permanently closed in accordance with details to be agreed in writing with the Local Planning Authority.

Reason: To reduce to a minimum, the number of individual access points to the road, in the interests of road safety.

Highway Condition 11
Prior to the occupation of any dwelling the vehicular access to Oxcroft Bank shall be improved in accordance with drawing numberJ201-BR-1A dated Jan 26.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site"

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

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 of the settlement boundaries outlined within the SELLP. Policy 1 states that "the rest of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside". As such, the site should be considered to be within the Countryside from a planning policy context.

Policy 1 states 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."

Need for Housing

The NPPF outlines, within Paragraph 61, that "to support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet an area's identified housing need, including with an appropriate mix of housing types for the local community.".

Paragraph 73 of the NPPF also emphasises the importance that the contribution of small to medium sized sites can make in meeting the housing requirements. ("Small and medium sized sites can make an important contribution to meeting the housing requirement of an area (..) and are often built-out relatively quickly"). This paragraph seeks to ensure that there is a sufficient supply of homes and advises that sites of all sizes make a contribution to the housing requirement of an area.

Self and Custom Building Housing

Pertinent to housing need is Section 2 of the Self and Custom Housebuilding Act, 2015, which states that: "an authority to which this section applies must give development permission for the carrying out of self-build and custom housebuilding on enough serviced plots of land to meet the demand for self-build and custom housebuilding in the authority's area in respect of each base period." To this end, and as reaffirmed within Footnote 28 of the NPPF, the Planning Authority are obliged to give enough suitable development permissions to meet identified demand.

The Self-build and Custom Housebuilding Act 2015 (as amended by the Housing and Planning Act 2016) provides a legal definition of self-build and custom housebuilding. The Act does not distinguish between self-build and custom housebuilding and provides that both are where an individual, an association of individuals, or persons working with or for individuals or associations of individuals, build or complete houses to be occupied as homes by those individuals. The definition contained within the Act is as follows:

"In this Act "self-build and custom housebuilding" means the building or completion by:
(a)individuals,
(b)associations of individuals, or
(c)persons working with or for individuals or associations of individuals,
of houses to be occupied as homes by those individuals."

It should be noted here that one of the dwellings proposed here here is identified within the application form as a self-build dwelling.

In this regard, South Holland District Council have published a position in respect of the Self and

Custom Build Register, which has subsequently been updated further in January 2026.

It is acknowledged that the Self-build and Custom Housebuilding Act 2015 places a duty on all Local Planning Authorities to grant enough suitable permissions on serviced plots to meet the need set out in the self-build register, for each year, within a 3 year reporting period. Self and custom build housing is defined as housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can either be market or affordable housing.

The aforementioned Act requires that all authorities must have granted sufficient planning consents for enough serviced plots, which are suitable for self and custom build to meet the demand for the period. In this regard, demand is measured by the number of people joining the Council's Self and Custom Build Housing Register.

The latest figures published in January 2026 shows that between the 31 October 2022 and the 30 October 2025, South Holland District Council received 34 applicants for entry onto its register. "In response to this demand, the Council has granted permission for 50 dwellings that comprise 34 self and custom build dwellings supported by a unilateral undertaking or a biodiversity net gain exemption plus 16 others where the applicant evidence on planning applications, condition discharge, modifications and Building Regulation applications indicate a person rather than a building company during this period".

The Council has therefore, met and exceeded the requirements of the legislation by having granted sufficient Self and Custom Build permissions to meet the registered demand. Therefore, the Council has currently fulfilled its requirements, in meeting the registered demand for the preceding three years.

However, demand has substantially increased in recent years, primarily due to the exemption for Self and Custom Build Developments from Biodiversity Net Gain requirements. There is, therefore, a requirement to demonstrate an equivalent increase in the number of Self and Custom Build permissions granted. The Council has three years in order to grant enough permissions to meet this demand in order to comply with this duty, which it is presently achieving.

Whilst the requirement for providing Self and Custom Build housing is acknowledged, such developments must be in accordance with the policies set out within the SELLP as a whole. The requirement to provide Self and Custom Build development does not attract such overriding weight, that is should outweigh the fundamental spatial planning policies within the SELLP which directs suitable locations for residential development through its spatial strategies.

Whilst the SELLP does not have a policy dedicated to self-build proposals, Policies 10, 11 and 17 provide a strategy for the provision of these dwellings. Paragraph 5.3.5 of the SELLP states:

"Within the defined settlement boundaries there will be numerous opportunities for infill and larger-scale housing development that will be available to the local builder, self-builder, custom-builder and larger house-building companies. It is not practical to identify or anticipate all such opportunities; however, the positive tone of the Local Plan encourages such development provided that the material considerations of the Local Plan and particular sites can be met."

Policy 17 expands upon this briefly, outlining that the "Local Plan will also seek to meet the housing needs of custom and self-builders as they may come forward." Paragraph 5.9.4 of the reasoned justification for this policy reiterates that "opportunities for infill development within Settlement Boundaries can also meet the known interest registered by self and custom house builders".

In other words, proposals for self-build dwellings should be consistent with the Development Plan as a whole and appropriately located within settlement boundaries.

This approach has been confirmed within Appeals APP/A2525/W/23/3319481, APP/A2525/W/24/3343297 and APP/A2525/W/25/3359058 amongst others. Within these previous appeals, it was outlined that proposals which break from the spatial strategy of the SELLP would require significant justification, including evidence that a search for alternative sites within settlements has been conducted.

The Council is supportive of Self and Custom Build housing, and will continue to meet the required number of granted planning approvals to comply with the Self and Custom Housebuilding Act 2015.

Furthermore, the Council does consider that weight should be afforded to Self or Custom Build proposals in line with National requirements. The Council will not however, support Self and Custom Build housing where it fundamentally conflicts with the Locational Strategy or other policies within the SELLP.

Whilst South Holland District Council will need to grant sufficient suitable developments in order to meet the uplift in Self and Custom Build demand, it has three years in which to do so. As such there is no compelling need at this time to grant Self or Custom build developments which would otherwise conflict with the SELLP. The requirement to meet demand for Self and Custom Build housing does not overcome the current planning applications fundamental policy conflict with the SELLP.

As the Council has currently exceeded its requirements in relation to Self and Custom Build, the weight afforded to this in the determination of this current planning application alone is insufficient to warrant a departure from the SELLP in this instance. Whilst weight is rightly afforded to the Self and Custom Build nature of the proposal, in light of the above, it is considered that only limited weight should be attached to this matter in the determination of this planning application owing to the proposals lack of compliance with the SELLP.

Furthermore, it is considered that the limited benefits of one single Self and Custom Build dwelling in this specific location (particularly given the Council is able to demonstrate it is meeting the requirements of the Self and Custom Housebuilding Act 2015) is not considered to overcome the fundamental policy conflict, and does not attract sufficient weight to outweigh the proposals clear lack of compliance with the Development Plan in the planning balance, or justify a departure from the Spatial Strategies of the SELLP.

Assessment

It is well-established that the planning history of a site carries material planning weight. In this regard, due consideration must be given to previous permissions granted on the site.

Application H23-0335-23 was made under Class Q of the General Permitted Development Order, 2015. This application enabled the conversion of the agricultural buildings, which were present on site at the time, to be converted into three residential dwellings.

Following this, application H23-0717-23 granted full planning permission for the erection of three dwellings on the site. These three dwellings would replace those consented under H23-0335-23. This was under the "betterment" principles outlined in Mansell vs Tonbridge and Malling Borough Council (2017) amongst others. The agricultural buildings were still present on site at the time, and therefore, the realistic Class Q fallback position was a material consideration which enabled the development to be acceptable in principle, subject to an assessment as to whether the proposal was considered to represent an improvement over the Class Q scheme. In this instance it was considered the proposal represent a betterment.

Subsequently, the agricultural buildings were demolished on the site. As a result, there is no longer a Class Q fallback position. However, in demolishing the buildings, H23-0717-23 was enacted and development commenced on the site. H23-0717-23 is therefore an extant and active permission, capable of being completed (subject to the discharge of the relevant pre-commencement beyond oversite conditions). This fact carries significant planning weight.

On the basis of the site history and the fallback position conferred by H23-0717-23, it is considered that the principle of residential development on the site has been established. This is considered to be the case regardless of the positioning within the Countryside and perceived conflict with Policy 1.

As such, when viewed on balance, the proposal is considered to be acceptable 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.

South Holland do not have a local design guide, meaning that supplementary guidance on design matters is principally driven by national documents, including the National Design Guide (NDG). The NDG outlines broad principles for well designed places. The NDG is supported by the National Model Design Code (NMDC), which has a greater emphasis on matters such as density and built form, and approaches assessments in a more empirical manner.

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 design is evidently inspired by traditional agricultural barns, which are ubiquitous in rural Lincolnshire. The materials selected, courtyard arrangement, anchor plates etc all are reminiscent of these traditional barns. This homage clearly roots the design within in a sense of a place of the area, ensuring it appears well integrated into this setting. The appearance, in contrast to the previously approved designs, would better reflect local vernacular and is a marked improvement on the area. On this basis, the proposal would be in accordance with the provisions of the NDG.

The materials selected are entirely appropriate for the proposed design. There is a consistency in approach throughout the site to ensure a clear character is created. These materials are appropriate for the design inspirations behind the proposal.

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 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.

It is accepted that the proposal represents the development of two large and sizeable dwellings, which would create a notable bulk of built form. Notwithstanding this, and in consideration of the development already extant on site, the proposal would not overlook its neighbours. Three of the southern facing windows of Plot 2 connect to bathrooms/ laundry rooms, which encourages the use of obscure glazing. This would be ensured via a condition. The western most, southern facing bedroom window would look over the front garden of Carlton Lodge. Seeing as this is visible from the public realm, the views would not be overly intrusive and would not be detrimental residential amenity.

Plot 2 would cast some shadow onto Carlton Lodge. At a distance of 5.5m from wall to wall, the 7.85m ridge would restrict light reaching the ground floor windows of Carlton Lodge. Two of these windows connect to a living room. However, whilst not facing true north, these windows are angled northwards, and therefore, can expect a reduced level of sunlight. Moreover, the living room is also served by a large west facing window, which would be the primary light source for the room. On this basis, the level of harm would not be overly substantial.

In any event, as previously outlined, the site history is a material planning consideration. The previous permissions (H23-0019-24 and H23-0717-23) consented a taller dwelling, with a lower separation distance. In light of this, this proposal can be seen as a betterment over the pre-existing scheme.

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.

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. Adequate parking places have been created.

The proposed site access would provide adequate visibility. The quantity of vehicles using the site would not be significantly greater than, likely being less than, the former agricultural use or the use by three dwellings.

It is proposed that there would be a new access created. This is considered to be in an acceptable position, with adequate visibility maintained. The conditions requested by the Highway Authority are considered to be appropriate to secure the long-term viability of this access.

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 9 of the NPPF.

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.

Whilst a formal sequential test has not been provided, it is considered in this instance that the sequential test is passed. Paragraph 174 of the NPPF is clear that the SFRA should be the basis for the application of the test. Seeing as the site is in a no hazard zone in the SFRA, the site is considered sequentially preferable.

In any event, permission has already been granted for three dwellings on the site. This permission has been commenced and there is a reasonable probability the development may be completed. On this basis, the site has already been considered acceptable from a sequential test perspective, and in light of there being a reduction in the number of units and no change to the modelling data available to the Council in the interim, it would be improper to resist the application on this basis.

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.

The proposal is not considered to meet any of the relevant exemptions. On this basis, the proposal is required to demonstrate net gain. From the details provided, an offsite method of gain has been proposed. This is considered acceptable in principle, subject to the submission of appropriate details at the condition discharge stage.

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.

Whilst the proposal would be contrary to Policy 1 of the SELLP, due to the history of residential dwellings being considered permissible on the site, the principle of a residential development is considered acceptable here. The development hereby proposed does not materially harm the character or appearance of the locality, or amenity of nearby residents, and provides adequate parking, whilst conforming with the SELLP 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

Taking these factors into consideration, the proposal is considered to comply with Policies 2, 3, 4, 33 and 36 of the SELLP, as well as Sections 9, 12, 14 and 15 of the NPPF. There are no significant factors in this case that would outweigh the benefits of the proposal; therefore, the planning balance is in favour of the proposal.

Recommendation

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