DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H01-0076-24** | **Applicant:** | **Dale Harrison Homes Ltd** |
| **Proposal:** | Details of written scheme of archaeological investigation, verification report & construction management (Conditions 4, 12 & 17 of H01-0509-23) | | |
| **Location:** | Pumping Station Mill Drove South Cowbit | | |
| **Terminal Date:** | 27th March 2024 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

| | |
|---|---|
| 02 | Development Management |
| 03 | Design of New Development |

**National Guidance**

**National Planning Policy Framework 2023**

Section 2 - Achieving sustainable development
Section 4 - Decision-making
Section 5 - Delivering a sufficient supply of homes
Section 8 - Promoting healthy and safe communities
Section 9 - Promoting sustainable transport
Section 11 - Making effective use of land
Section 12 - Achieving well-designed and beautiful places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment
Section 16 - Conserving and enhancing the historic environment

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| HIGHWAYS & SUDS SUPPORT | 0 | 0 | 0 | 1 |
| SOUTH HOLLAND INTERNAL DRAINAGE BOARD | 1 | 0 | 0 | 0 |
| SHDC INTERNAL | 0 | 0 | 1 | 0 |
| OTHER STATUTORY BODIES | 0 | 0 | 0 | 1 |

## CASE OFFICER ASSESSMENT

### Proposal

The application is to discharge conditions 4, 12 & 17 of H01-0509-23 (Details of written scheme of archaeological investigation, verification report & construction management).

The original submission included the discharge of Conditions 3, 9 and 13 (external materials, landscaping & tree planting and surface water disposal), however, as per the correspondence received on 22nd March 2024 these conditions have been removed from the description and are no longer being assessed within this application.

### Site Description

The application site, to the west of Mill Drove South, forms part of a wider area of brownfield land, formerly used as a railway yard associated with the defunct line that ran through the site.

The land has been left unused for a number of years. The site of the proposed development is within Flood Zones 1 as shown on the Environment Agency's Flood Zone maps.

It is also noted that the site located to the north has also been subject to permission for residential development, with an ongoing proposal currently being considered by the Local Planning Authority.

### History

H01- 0871-18 - Outline - Residential development - up to 45 dwellings, including re-alignment of Mill Drove to Stonegate Road junction - Approved 15.03.2019

H01-1170-22 - Outline - Residential Development - Approved 16.03.2023

H01-0509-232 - Full - Proposed Residential Development of Four Detached Dwellings - Approved 22.11.23

H01-0098-24 - Prior Approval App - Conversion of Barn to Dwelling - To be determined

### 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:

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. I note the applicant has undertaken ground investigations in order to discharge condition 12 (Combined Phase 1 and Phase 2 Geo-Environmental Investigations, Document Reference: 23-517, Ground and Environmental Investigation Limited, January 2024). This document notes groundwater was encountered at all locations during the intrusive investigations. Therefore, the Board questions whether the use of infiltration as a means of surface water disposal is appropriate for this development.

As per my comments under planning application H01-0509-23, following ground investigations, we would expect the applicant to undertake further testing in line with BRE Digest 365 to determine the infiltration potential (if onsite material is considered favourable). As the applicant has yet to evidence that their proposed drainage strategy is appropriate, the Board objects to this proposal. The reason for the Board's objection is to prevent flood risk within its IDD, in line with the National Planning Policy Framework, specifically paragraph 173.

If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

The nearest riparian watercourse that I am aware of lies to the west of the site. Whilst unlikely, should the applicant's proposals change to include works to alter the riparian watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

I note the presence of a piped Board Maintained watercourse (DRN193P2801- B28 Parsons Dyke) running adjacent to (and partially within) the eastern site boundary. Whilst not currently proposed, should the applicant's proposals change to include works to alter the watercourse, or if works are proposed to alter the watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

I note that the applicant intends to install Heras fencing to secure the site, however, it is unclear whether this will fall within 9 metres of the aforementioned piped Board Maintained watercourse, B28 Parsons Dyke. Any temporary or permenant structures within 9 metres of B28 Parsons Dyke requires the Board's written consent. We request the applicant confirms the distances from the proposed fencing to the piped watercourse.

In addition, I note the applicant intends to extend the footpath to the roadside, however further detail on the dimensions of the proposed footpath have not been provided. From the drawing submitted, the shaded area proposed for the footpath extension appears to be directly above B28 Parsons Dyke (HCD-0614-2309 CC, Harrison and Cooke Developments Ltd, 17/02/2023). Therefore, the Board objects to this proposal. As per the Board's Planning and Byelaw Strategy, it is unlikely the Board would accept a tarmac/hardcore footpath directly above the piped watercourse.

Historic Environment Officer

Condition 4 can be discharged.

SHDC Environmental Protection

No observations

Highway and Lead Local Flood Authority

Recommendation: No objection

The details of external materials, written scheme of archaeological investigation, landscaping & tree planting, verification report, surface water disposal & construction management (Conditions 3, 4, 9, 12, 13 & 17 of H01-0509-23) submitted to discharge these conditions are acceptable in accordance with approved drawings and details submitted with this application.

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 Considerations**

The application is to discharge conditions 4, 12 & 17 of H01-0509-23 (Details of written scheme of archaeological investigation, verification report & construction management).

Condition Details

The conditions detail:

Condition 4]

*No development shall take place until a written scheme of archaeological investigation has been submitted to and approved in writing by the Local Planning Authority. This scheme should include the following and should be in accordance with the archaeological brief supplied by the Lincolnshire County Council Historic Environment advisor on behalf of the Local Planning Authority:*

*1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).*
*2. A methodology and timetable of site investigation and recording*
*3. Provision for site analysis*
*4. Provision for publication and dissemination of analysis and records*
*5. Provision for archive deposition*
*6. Nomination of a competent person/organisation to undertake the work*
*7. The scheme to be in accordance with the Lincolnshire Archaeological Handbook.*

*The archaeological site work shall only be undertaken in accordance with the approved written scheme.*

*Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with national guidance contained in Section 16 of the National Planning Policy Framework, 2023. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.*
*This Condition is imposed in accordance with Policy 29 of the South East Lincolnshire Local Plan, 2019.*

LCC Archaeology have been consulted and have indicated that written scheme of investigation for archaeological monitoring and recording submitted complies with condition 4 of H01-0509-23. They therefore recommend that condition 4 can be discharged.

Condition 12

*If contamination of land and/or pollution of controlled waters has been identified as a result of investigation undertaken in accordance with Condition 11 above and remediation is required, a full copy of a verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.*

*Note: The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.*

*Reason: To ensure the satisfactory remediation of contaminated land and/or waters.*
*This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.*

Environmental Protection have been consulted on this application and have confirmed that they have no observations and therefore conditions 12 of H01-0509-23 can be discharged in full.

Condition 17

*A detailed scheme of construction management to minimise disturbance during the construction process through noise, dust, vibration and smoke shall be submitted to and approved in writing by*

*the Local Planning Authority before the development commences and the construction process shall be carried out in accordance with the scheme so approved. It shall also include a method statement, detailing how construction traffic, site personnel vehicles, materials deliveries and site accommodation will be managed to safeguard highway safety, free passage along Mill Drove South and residential amenity.*

*Reason: In the interests of the amenity of local residents. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.*
*This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.*

The submitted documentation includes a construction management plan which shows the phasing of the development to include access construction, the parking of vehicles of site operatives and visitors, loading and unloading of plant and materials, storage of plant and materials used in constructing the development and wheel washing facilities. Environmental Protection have been consulted on this application and have confirmed that they have no observations. The Local Highway Authority have no objection and consider that the submitted Construction Management Plan drawing is satisfactory and therefore the highway authority does not wish to object to the discharge of Condition 17.

In view of the fact the Local Highway Authority and Environmental Protection do not object to the details, they are considered satisfactory and the condition can be discharged.

## Conclusion

To conclude, for the reasons outlined above, it is considered that the details submitted in relation to Condition 4, 12 and 17 are acceptable and as such can be discharged.

## 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.