DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0138-24**	**Applicant:**	**East Anglian Civils Holdings Ltd**
Proposal:	Details of ecological biodiversity measures and ecological survey (Conditions 3 and 9 of H01-0639-22)		
Location:	Land At 66 Barrier Bank Cowbit Spalding		
Terminal Date:	15th April 2024		

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 5 - Delivering a sufficient supply of homes
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

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

The application is to discharge conditions 3 and 9 of H01-0639-22 (Details of ecological biodiversity measures and ecological surveys).

The original submission included the discharge of Condition 5 (contamination of land or pollution of controlled waters), however, as per the correspondence received on 03rd April 2024 these conditions have been removed from the description and are no longer being assessed within this application.

Site Description

The site is located on the northern side of Barrier Bank close to the western fringe of the village. It is presently occupied by a commercial building within the centre of the site. A hedge is located along the site's frontage and a number of trees are situated along the western boundary. It is accessed via a layby. Houses are located to the east and west of the site. Open land is situated to the north.

History

H01-1118-23 - Details of ecological biodiversity measures, contamination of land or pollution of controlled waters and ecological survey (Conditions 3, 5 and 9 of H01-0639-22) - Refused

H01-0639-22 - Residential Development - 6 Dwellings - Approved

H01-0640-22 - Proposed replacement offices & storage buildings including demolition of existing buildings - Approved

H01-0368-20 - Residential Development - approved under H01-0120-17. Removal of Condition 4 relating to maximum number of dwellings and maximum floorspace - Approved

H01-0359-20 - RM - Erection of 5 dwellings - Outline approval H01-0120-17 - Approved

H01-0120-17 - Outline - Residential development (5 plots) - Approved

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:

Lincolnshire Bat Group

Thank you for sending this ecological report to Lincolnshire Bat Group for comment. No evidence of bat use was found, but see time limit of survey, sections 5.2 and 5.3.

Lincolnshire Wildlife Trust

I am happy with Condition 3 & 9 to be discharged.

Environmental Protection SHDC

I have reviewed the Elemental GI reports E23169/1/0 Phase 1 Geo-Environmental Assessment and E23169/2/0 Phase 2 Environmental Investigation looked at this one and I am happy to recommend discharge of part I of condition 5 of H01-0639-22 but not part ii or iii at this time.

The consultant has found limited made ground and no obvious ground gas sources but has recommended ground gas protection measures at CS2 because the development is piled, please could they clarify their reasoning for this? Ultimately, they can do this, but if they are going to

recommend gas protection measures they will need to include the design in tehri remediation method statement and provide third part validation.

In addition, the report has identified lead at 2200mg/kg in TP01. This is ten times the C4SL of 200mg/kg, and as such a simple cover system of 600mm may not be considered suitably protective of future users. The result does look very different to the other data, and so I request further consideration of this area with respect to lead to identify if this is a hot spot, and if so, how big is it.

Given that lead and other contaminants have been identified in the made ground soils, the proposed land raise, although originally for flood protection purposes, will need to be covered by a remediation method statement and subsequent validation process.

Planning Considerations

The application is to discharge conditions 3, 5 and 9 of H01-0639-22 (Details of ecological biodiversity measures, contamination of land or pollution of controlled waters and ecological surveys).

Condition Details

The conditions detail:

Condition 3

Before the commencement of the development hereby permitted beyond oversite full details of ecological biodiversity measures to be installed in conjunction with the development shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be constructed and retained in accordance with the details so approved.

Note: Development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species such as the use of bat and barn owl roost boxes and integrating nesting opportunities into buildings. The use of swift bricks on new developments would help minimise the decline in swifts, a priority species.

Reason: To ensure that the development is able to deliver a net gain in biodiversity.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2021.

The details provided are sufficient and acceptable to discharge Condition 3. The ecological benefit illustrated is the inclusion of one swift brick per dwelling totalling four swift bricks for the development. The proposal also includes the planting of two Acer Campestre Trees, two Betula Pendula and two Prunus Avium Trees. The front and rear gardens are also to be turfed. The provision of four swift bricks and the proposed planting is sufficient to ensure the proposal complies with policy 28.

Lincolnshire Wildlife Trust have been consulted on this application and have confirmed that they are happy for Condition 3 to be discharged.

Condition 9

The existing buildings on site shall not be demolished until an ecological survey has been carried to establish the presence, or otherwise, of protected species upon the site and the results have been submitted to and approved in writing by the Local Planning Authority. If protected species are found to be present a working design, method and timetable to mitigate any harm to the species involved shall be submitted to and approved in writing by the Local Planning Authority and the development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of nature conservation.
This condition is imposed in accordance with advice within Section 15 of the National Planning Policy Framework, 2019.

Lincolnshire Bat Group and Lincolnshire Wildlife Trust have been consulted on this application and have confirmed that they are in general agreement with the ecologist's general conclusions of low

potential for bats roosting, therefore Condition 9 can be discharge.

Conclusion

To conclude, for the reasons outlined above, it is considered that the details submitted in relation to Condition 3 and 9 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.