Corporate Architecture Ltd
Venari House
1 Trimbush Way
Rockingham Road
Market Harborough
LE16 7XY

Council Offices
Priory Road
Spalding
Lincolnshire
PE11 2XE
Admin 01775 764725
DC Officers 01775 764703

planningadvice@sholland.gov.uk
www.sholland.gov.uk

TOWN AND COUNTRY PLANNING ACT 1990
SECTION 73A CONTINUATION

Reference: H05-0326-24 **Date of Decision:** 20th January 2025

Applicant: GEDA
9 High Street
Kegworth
Derbyshire
DE74 2DA

Location: 50 Fleet Road Fleet Spalding

Description: Residential Development of 25 Dwellings (Phase 2) - outline approval H05-0468-18 - with access via Phase 1 - approved under H05-0303-22. Modification of Condition 1 to allow amendments to previously approved plans.

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 The development hereby permitted shall be carried out in accordance with the following approved plans and/or documents unless superseded or amended by a subsequent consent:

H05-0468-18

Site Location Plan
14317/21
Flood Risk Assessment by Geoff Beel Consultancy (ref. GCB/Status Design) dated April 2018

H05-0303-22

5366/KP/22/001 Rev P1
5366/KP/22/002 Rev P1

5366/KP/22/003 Rev P13
5366/KP/22/004 Rev P13
5366/KP/22/005 Rev P13
5366/KP/22/006 Rev P7
2020-PL1-11 Rev A
2020-PL1-12 Rev A
2020-PL1-13 Rev A
5366/KP/22/011 Rev P2
5366/KP/22/012 Rev P2
5366/KP/22/013 Rev P3
5366/KP/22/014 Rev P2
Schedule of External Materials (Job no. 5366 - Rev 1) dated March 2022

H05-0497-23

5366/KP/22/003 Rev T3
5366/KP/22/008 Rev T1
4883/KP/19/002 C4
FW2114-E-001-01 Rev A6
FW2114-E-001-02 Rev A4
FW2114-D-003-01 Rev A6
FW2114-D-003-02 A5
Drainage Maintenance Schedule, ref: FW2114_DM_001 v1, dated February 2022
Drainage Strategy by Farrow Walsh (ref. FW2114_DS_001 V4) dated December 2022
Design Settings by Farrow Walsh Consulting Ltd dated 6 December 2022
Estate Road Phasing Plan by Corporate Architecture
Construction Management Plan by GEDA Construction dated 23 May 2023
Landscape Management Plan by Keary Design Associates (ref. 2020-RP-02-Rev B) dated 17 February 2021
Landscape Maintenance Specification (Version 6 10.12.2019) by Platform Housing Group
4/87964 Issue 1 (Childrens Play Area) dated 16 January 2023
Planet Jungle 'The Cloud' Specification
Rotaplay Single Zigzag Twister Specification
Basket Mini Swing Specification
Spring Mobiles Galaxy (Sit-on) Specification
Keyston Seat Specification
Keyston Bin Specification
End Cap Fixing Details
Waste Strategy by Corporate Architecture
Habitat and Protected Species Report by Paul Hicking Associates (ref. 21110-PHA) dated November 2021
Protected Species (Bats) Emergence and Activity Survey Report (ref. 21110-PHA) dated June 2022
Ground Investigation Report by Ground Engineering (ref. C15929A) dated September 2023
Ground Gas Protection Measures Verification Plan by Elemental GI Ltd (ref E23180/G/0) dated October 2023
Summary of Recent Supplementary Environmental Investigation Works (ref. E23180/STLR) dated 3 October 2023

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5366/KP/22/003 Rev C3
5366/KP/21/900 Rev C2

Reason: For the avoidance of doubt and in the interests of proper planning.

2 The approved scheme of landscaping shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

3 The approved scheme of boundary treatment/screening shall be implemented in full before any dwelling is occupied.

Reason: In the interests of the character and appearance of the development and the amenity of neighbouring residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

4 Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with the approved details.

Reason: In the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

5 The permitted development shall be undertaken in accordance with the approved Estate Road Phasing and Completion Plan.

Reason: To ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development.
This Condition is imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019.

6 The development shall be carried out in accordance with the approved surface water drainage scheme and no dwelling shall be occupied until the approved scheme has been completed or provided on the site in accordance with the approved details. The approved scheme shall be retained and maintained in full in accordance with the approved details.

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Reason: To ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, December 2024.

7 No dwellings shall be occupied until the works have been carried out in accordance with the approved foul water strategy.

Reason: To ensure that the site is adequately drained and to avoid pollution.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

8 The construction process shall be carried out in accordance with the approved construction management plan.

Reason: In the interests of the amenity of local residents.
This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

9 The areas of publicly accessible open space shall be laid out and made available for use in accordance with the approved details and shall thereafter be so maintained.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

10 An equipped children's play area shall be provided in accordance with the details so approved, and thereafter so maintained.

Reason: To ensure that adequate play provision is made for the occupiers of the development hereby permitted and that the facility is adequately managed and maintained.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

11 Management of the areas of publicly accessible open space and outdoor play areas shall be carried out in accordance with the details so approved.

Reason: To ensure that adequate open space provision is made available for the occupiers of the development hereby permitted and that provision is made for the management and maintenance of the open space.
This Condition is imposed in accordance with Policy 32 of the South East Lincolnshire Local Plan, 2019.

12 The areas of incidental open space, refuse/recycling collection points and parking courts shall be maintained in accordance with the approved landscape management and maintenance schedule.

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Reason: To ensure a satisfactory development in the interest of the amenities of the locality.
This Condition is imposed in accordance with Policies 2 and 32 of the South East Lincolnshire Local Plan, 2019.

13 The approved scheme of the means of storage and disposal of refuse and recycling shall be fully implemented before the dwelling(s) to which it relates has been occupied and shall thereafter be retained.

Reason: To ensure that adequate facilities are made available for refuse storage and disposal to avoid pollution, to protect residential amenity, and in the interests of the appearance of the site and the area within which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

14 The development hereby permitted shall be carried out in accordance with the measures set out in the approved Flood Risk Assessment, including/plus the following measures, unless otherwise agreed in writing by the Local Planning Authority.
- Finished floor levels shall be set 500mm above existing ground level;
- Safe refuge shall be provided above ground floor level;
- Flood resilience measures shall be incorporated within the development up to 300mm above finished floor level.
The mitigation measures shall be fully implemented prior to occupation.

Note: Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

Reason: To ensure that the development does not increase the risk of flooding or be at risk of flooding.
This Condition is imposed in accordance with Policies 3 and 4 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, December 2024.

15 A full copy of a contamination 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.

16 The works shall be carried out in accordance with the approved ecological survey.

Reason: In the interest of nature conservation.
This Condition is imposed in accordance with national guidance contained in Section 15 of the National Planning Policy Framework, December 2024.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

This planning permission is subject to an Agreement under Section 106 of the Town & Country Planning Act 1990 which was signed under permission reference H05-0468-18, dated 28 March 2019 , which has been further subject to a Deed of Variation dated 10th January 2025 and can only be carried out as a consequence of meeting the provisions of the relevant S106 Legal Agreements, the developer is strongly advised to seek their own legal advice before proceeding with the development subject to this permission.

All roads within the development hereby permitted must be constructed to an engineering standard equivalent to that of adoptable highways. Those roads that are to be put forward for adoption as public highways must be constructed in accordance with the Lincolnshire County Council Development Road Specification that is current at the time of construction and the developer will be required to enter into a legal agreement with the Highway Authority under Section 38 of the Highways Act 1980. Those roads that are not to be voluntarily put forward for adoption as public highways, may be subject to action by the Highway Authority under Section 219 (the Advance Payments code) of the Highways Act 1980. In all cases, the developer is advised to undertake early discussions with statutory undertakers to co-ordinate the laying of utility services under the highway.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

For further guidance please visit the Lincolnshire County Council website via the following links:
Traffic Management - https://www.lincolnshire.gov.uk/traffic-management
Licences and Permits - https://www.lincolnshire.gov.uk/licences-permits

The existing ground level of the site must not be raised above the ground level of any surrounding land without further consultation with the Lead Local Flood Authority and Local Planning Authority, to consider suitable mitigation measures to ensure that surface water flood risk is not created or increased to land adjacent to the permitted development.

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of 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.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at
https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

- The development is exempt as the application is a Section 73 Application, the original permission was received before 12 February 2024.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of

the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: https://www.gov.uk/planning-inspectorate. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.