DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H05-0326-24**	**Applicant:**	**GEDA**
Proposal:	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.		
Location:	50 Fleet Road Fleet Spalding		
Terminal Date:	24th January 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework December 2024

Section 2. Achieving sustainable development.
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
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

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

CASE OFFICER ASSESSMENT

Proposal

The site has outline planning permission and reserved matters approval for 25 dwellings (Phase 2 - ref. H05-0468-18 and H05-0303-22). Work has commenced on site.

This application is to modify the scheme, including the following:
- the attenuation basin has been relocated following civils design.

Site Description

The application site (approximately 1.1ha) was formerly grassland located to the rear of residential properties on the southern side of Fleet Road. Dwellings are situated to the north fronting Fleet Road and semi-detached houses off Chapman Mews to the north-west. The site to the west has approval for 55 dwellings. Residential properties are located further to the west off Branches Lane. Open land is situated to the east.

Relevant Planning History

H05-1183-16 - O/A - Residential development - 55 dwellings including demolition of existing house - Approved 25 January 2018 subject to S106 planning agreement dated 15 January 2018.

H05-0468-18 - O/A - Residential development (Phase 2) - 25 dwellings (access via Phase 1 approved by virtue of planning permission ref. H05-1183-16) - Approved 1 April 2019 subject to a S106 planning agreement.

H05-0670-20 - RM - Residential Development - 55 dwellings including demolition of existing house - outline approval H05-1183-16 - Approved 11 October 2021.

H05-1168-21 - Cond Comp - Details of boundary screening, roads & footways, surface water drainage, foul water disposal, construction management plan, plan illustrating areas of publicly accessible open space, landscape management & maintenance schedule, means & storage of refuse & recycling and scheme to deal with contamination & pollution (Conditions 5, 6, 9, 10, 11, 12, 15, 16 & 18 of H05-1183-16) - Approved 1 March 2022.

H05-1209-21 - Cond Comp - Details relating to estate road & associated footways & finished surface levels, management plan for open spaces & outdoor play areas and protected species survey (Conditions 8, 14 & 19 of H05-1183-16) - Approved 28 February 2022.

H05-0066-22 - Modified Agreement - Modification of 106 Agreement to update clause 8.10 (mortgagee in possession to bring into line with current policy) - relating to planning approval H05-1183-16 - Approved 27 June 2022.

H05-0204-22 - S73 - Residential Development - 55 dwellings including demolition of existing house - approved under H05-1183-16. Modification of Conditions 7 & 8 relating to highway & footpath details - Approved 30 June 2022.

H05-0303-22 - RM - Residential Development of 25 Dwellings (Phase 2) outline approval H05-0468-18 (with access via Phase 1 approved by virtue of planning permission H05-1183-16) - Approved 20 February 2023.

H05-0439-22 - NMA - Residential Development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Amendments to swale design - Approved 12 May 2022.

H05-0446-22 - S73 - Residential development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Modification of Condition 1 to allow amendments to previously approved plans - Approved 25 July 2022.

H05-0770-22 - S73 - Residential Development - 55 dwellings including demolition of existing house - approved under H05-0670-20. Modification of Condition 1 to allow amendments to previously approved plans - Approved 2 November 2022.

H05-0147-23 - Cond Comp - Details of children's play area - (Condition 11 of H05-0770-22) - Approved 5 April 2023.

H05-0497-23 - Cond Comp - Details of proposed boundary treatment/screening, finished surface levels, estate road phasing & completion plan, surface water drainage scheme, foul water drainage strategy, construction management, publicly accessible open space, children's play areas, open space/outdoor play area management plan, landscape management and maintenance, storage and disposal of refuse and recycling, contamination of land or pollution of controlled waters and ecological survey. (Conditions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17 and 18 of H05-0468-18) - Under consideration.

H05-0526-23 - S73A - Residential Development - 55 dwellings including demolition of existing house - approved under H05-0770-22. Modification of Condition 4 relating to boundary treatment in north-west corner of the site - Approved 29 August 2023

H05-0327-24 - Cond Comp - Details of full closure report (Condition 17 part iv of H05-0468-18) - Refused 25 June 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:

Fleet Parish Council

No response received.

Local Highway and Lead Flood Authority

No objections.

South Holland Internal Drainage Board

No objections.

Environment Agency

No comments.

Anglian Water

No comments.

Public

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, an objection has been received (main points summarised below):

- Movement of the attenuation basin results in POS on the West Side of the plan which could be subject to further planning application in future - suggest a lifetime covenant to ensure no further development of the site beyond the current plan.

Key Planning Considerations

The purpose of an application made under Section 73 of the Town and Country Planning Act 1990 is to vary or remove conditions associated with an existing planning permission. These applications are used to allow for amendments to an approved scheme and can be made both retrospectively and prior to a permission being implemented, as long as the permission is extant.

The Act is very clear that: "On such an application the Local Planning Authority shall consider only the question of the conditions subject to which planning permission should be granted." As such, the Local Planning Authority are not able to revisit the principle of development and only matters relevant to the specific conditions can be considered.

The Planning Practice Guidance, under Paragraph 31, details this further by stating that "In deciding an application under Section 73, the Local Planning Authority must only consider the disputed condition/s that are the subject of the application - it is not a complete re-consideration of the application".

As indicated above, therefore, the principle of residential development (phase 2 - 25 dwellings) has been established. This application is solely for re-location of the attenuation basin. The main issues therefore are:
- Whether the proposed revisions would materially harm the character/appearance of the locality or amenity of neighbouring residents;
- Surface water drainage issues;
- Bio-diversity.

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms 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 (updated December 2024) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Character/Amenity

Policies 2 and 3 of the SELLP, amongst other matters, seek to ensure that sustainable development considerations are met. They also seek to ensure that development respects the character and appearance of the area and the relationship to existing development and land uses. They also set out residential amenity and the relationship to existing development and land uses as main considerations when making planning decisions.

Paragraph 135, contained within Section 12 of the National Planning Policy Framework (December 2024), states that new development should function well and add to the overall quality of the area (beyond the short term and over the lifetime of the development) and should be visually attractive as a result of good architecture, layout 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.

Development proposals should also ensure that developments 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.

The attenuation basin has been positioned further north closer to the new dwellings. Taking into account the general relationship and separation distances between the development and neighbouring properties no objections are raised on visual or residential amenity grounds.

Addressing issues raised by the objector, there is still more than ample public open space within the development. Any application for further dwellings would be assessed on its own individual planning merits if submitted.

The proposal satisfactorily complies with Policies 2 and 3 of the SELLP in this respect.

Drainage

Policy 4 of the SELLP states that schemes should incorporate the use of Sustainable Drainage Systems (SuDs) unless it is not technically feasible.

In this case, the revision has been recommended by civil engineers. The Lead Flood Authority has indicated that the modifications will not have an adverse impact upon surface water flood risk. The SHIDB has stated that an application has been made for consent under Byelaw 3 and Byelaw 10 and include the amended location of the attenuation basin. Consequently, the Board has no concerns.

The proposal therefore accords with Policy 4 of the South East Lincolnshire Local Plan, 2019 in terms of drainage.

Biodiversity

The application was submitted prior to mandatory requirements for Biodiversity Net gain as introduced by Schedule 7A of the Town and Country Planning Act 1990 (inserted by the Environment Act 2021) which requires developers to deliver a minimum of 10% Biodiversity Net Gain using standardized biodiversity units measured by statutory biodiversity metrics. For applications such as the current scheme, submitted prior to the introduction of this requirement, it simply needs to be demonstrated that there is a bio-diversity gain in line with Policy 28 of the SELLP.

The attenuation pond has been located within an area that was formerly designated as a wildlife meadow. However, there are other areas within the development that include bio-diversity measures and new planting, plus the area to the south could be utilised.

The proposal therefore accords with Policy 28 of the South East Lincolnshire Local Plan, 2019 in this respect.

Planning Balance

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 proposed modification does not materially harm the character or appearance of the locality, or amenity of nearby residents. It is acceptable on surface water drainage and bio-diversity grounds, whilst conforming with the South East Lincolnshire Local Plan and the provisions of the National Planning Policy Framework 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 into consideration these factors, the proposal is considered to comply with Policies 2, 3, 4 and 28 of the South East Lincolnshire Local Plan (SELLP), 2019, plus advice within the National Planning Policy Framework (NPPF), December 2024. There are no significant issues in this case that would outweigh factors in favour of the proposal; therefore, in considering all the matters raised above the planning balance is in favour of the proposal and the policies referred to above.

Recommendation

That the application be approved under delegated powers, subject to conditions.