

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H06-0024-25 **Applicant:** Mr J Rooney

Proposal: Details of Biodiversity Net Gain Plan supported by a Biodiversity Management Plan (Condition 7 (i) of H06-0842-24)

Location: The Orchards Blazegate Gedney

Terminal Date: 6th March 2025

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
19	Rural Exception Sites
20	Accommodation for Gypsies, Travellers and Travelling Showpeople
28	The Natural Environment
30	Pollution
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework December 2024

Section 2: Achieving sustainable development
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
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CASE OFFICER ASSESSMENT

Proposal

This proposal seeks to discharge Condition 7(i) of planning approval H06-0842-24, relating to details of Biodiversity Net Gain Plan supported by a Biodiversity Management Plan.

Site Description

The site was considered, during the assessment of the prior application, as agricultural in planning terms, but had not been maintained as such and had become more naturalised in terms of appearance. There are trees to the northern, western and southern boundaries. Only part of the eastern boundary is treed, with a large proportion of those that formerly stood along this boundary having been felled and replaced with closeboard fencing.

The overriding character of the area is rural countryside, with very limited development in the vicinity. The closest dwelling is immediately opposite the site to the north and there are a small number of dwellings and commercial premises to the north-east around the junction of Blazegate and Gipsy Lane.

History

H06-0772-21 - Change of use from agricultural land to provide 5 gypsy/travel - Refused 17.01.2022

This application contained two reasons for refusal. It was concluded that the application was contrary to Policy 4 of the South East Lincolnshire Local Plan (2019) due to the flood risk vulnerability of the site, as well as being contrary to Policy 1, due to the Council already granting permission for sufficient pitches within the plan period to satisfy both the known and unknown need outlined in the South East Lincolnshire Local Plan, 2019.

H06-0791-22 - Change of use of agricultural land to provide 5 gypsy/travel - Decline to Determine

South Holland District Council declined to determine application H06-0791-22 for the following reasons:

This decision follows the enforcement notice served by South Holland District Council ("Council") in respect of land at Silver Birch Lane, off Blazegate, Gedney, Spalding, PE12 0FU ("Site") with an effective date of 9 March 2022 ("Enforcement Notice") and the subsequent application for planning permission submitted to the Council by Mr Rooney ("Applicant") and given reference H06-0791-22 ("Application") for: "Change of use of agricultural land to provide 5 gypsy/traveller family pitches each having a static mobile home, dayroom, parking for a tourer and 2 vehicle spaces together with a treatment plant, the laying of hardstanding and associated ancillary works (part retrospective) - re-submission of H06-0772-21" ("Proposed Development").

The Council considers it clear that granting planning permission for the Proposed Development would require the grant of permission for "the matters specified in the enforcement notice as constituting a breach of planning control", thereby engaging Section 70C for the following reasons: Both the Application and the Enforcement Notice relate to the same area of land/part;

The Enforcement Notice specifies the residential use of the Site by gypsy/travellers and the stationing of caravans for human habitation and associated operational development on the Site as the breach of planning control; the Application seeks permission for gypsy/traveller family pitches together with ancillary works. The Council therefore considers that the Application seeks permission for precisely the use and works specified in the Enforcement Notice.

The Enforcement Notice was issued on 2 February 2022 (predating the Application by over 6 months) and therefore was a "pre-existing enforcement notice" for the purpose of the Act.

H06-0216-23 - Change of use of agricultural land to provide 2 gypsy/travel - Withdrawn

This application was withdrawn.

H06-0532-23 - Change of Use of Agricultural Land to Provide 5 Gypsy/Traveller Family Pitches Each having a Static Mobile Home, Dayroom, Parking for a Tourer and 2 Vehicle Spaces together with a Treatment Plant, the Laying of Hardstanding and Associated Ancillary Works - re-submission of H06-0216-23 (part retrospective) - Appeal Allowed 05.07.2024

This application was allowed at appeal.

H06-0839-24 - Condition Compliance - Details of foul & surface water drainage, existing & proposed site levels & flood warning & evacuation plan (Conditions 5(i), 6(i) & 8(i), of H06-0532-23) - Approved 18.12.2024

This application was approved.

H06-0842-24 - Section 73

Change of Use of Agricultural Land to Provide 5 Gypsy/Traveller Family Pitches Each having a Static Mobile Home, Dayroom, Parking for a Tourer and 2 Vehicle Spaces together with a Treatment Plant, the Laying of Hardstanding and Associated Ancillary Works - re-submission of H06-0216-23 (part retrospective) - approved under H06-0532-23 (allowed on appeal). Modification of Condition 9 to change the timeframe for compliance relating to mitigation measures within Flood Risk Assessment.

This application was approved.

Consultation Responses and Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no consultee responses or letters of representation have been received.

Planning Considerations

Condition Details

The conditions detail:

Condition 7(i)

The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed within 28 days of the date of failure to meet any one of the requirements set out in (i) to (iv) below:

i) Within six months of the date of the appeal decision, under reference APP/A2525/W/24/3339458, a Biodiversity Net Gain Plan to demonstrate a net gain in biodiversity on-site, supported by a Biodiversity Management Plan setting out how the biodiversity enhancements will be managed and monitored for the lifetime of the development shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation.

A Biodiversity Enhancement Plan has been submitted to aid the assessment of this application. The report outlines what the applicant intends to feature within the site to accord to this condition.

Planting

Firstly, a soft landscaping scheme is proposed within the site. This includes the planting of new hedgerows with trees around the site, using native species. New hedgerows will be planted with shrub species 40% hawthorn *Crataegus monogyna*, 25% blackthorn *Prunus spinosa*, 10% hazel *Corylus avellana*, 10% dogwood *Cornus sanguinea* and 5% spindle *Euonymus europaeus*. At least one tree will be planted every 20m, comprised of 50% silver birch *Betula pendula* and 50% wild cherry *Prunus avium*. As well as the planting of native species-rich lawns in gardens, which are rich in nectar and pollen.

Bats

Within the site one integrated bat box is to be installed for each day room on site, which would equal five bat boxes within the site.

Birds

With regards to swift and bird boxes, one integrated swift box is to be installed for each day room on site, which would equal five swift boxes. As well as swift boxes, five small bird boxes are to be located on a suitably mature tree or building within the wider site ownership.

Hedgehogs, badgers and other mammals

Any fencing erected within the site will be porous and provide access points for hedgehogs, with the proposed plans using post and rail fencing and hedgerows. The proposal also includes one integrated bee brick to be installed for each day room on site, which would equal a total of five boxes.

Taking the above into account it is considered that the proposed Biodiversity Enhancement Plan would accord to the condition.

Conclusion

The details in relation to Conditions 7 are acceptable and 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.