

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H06-0839-24	Applicant:	Mr J Rooney
Proposal:	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)		
Location:	The Orchards Blazegate Gedney		
Terminal Date:	29th November 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
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 2024

National Planning Policy Framework Sections

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 and beautiful places
Section 14: Meeting the challenge of climate change, flooding and coastal change
Section 15: Conserving and enhancing the natural environment

Planning Practice Guidance

Planning Policy for Traveller Sites

Policy A: Using evidence to plan positively and manage development
Policy B: Planning for traveller sites
Policy C: Sites in rural areas and the countryside
Policy D: Rural exception sites
Policy H: Determining planning applications for traveller sites

Representations:

	Object	Support	No Obj.	Comments
ENVIRONMENT AGENCY	0	0	0	1
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This proposal seeks to discharge Conditions 5(i), 6(i) and 8(i), of planning approval H06-0532-23, relating to details of foul & surface water drainage, existing & proposed site levels & flood warning & evacuation plan.

Site Description

The site is classed as agricultural in planning terms, but it has 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 Gypsy 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.

H06-0842-24 - 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 - To be determined

This application is yet 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:

Environment Agency

We have reviewed the documents submitted with this application and wish to make the following comments:

Condition 5 (foul drainage and surface water drainage)

The Site Level & Drainage Statement, ref: BLI.2024.65 explains that foul water will be disposed of via a package treatment plants. Due to the distance from the site to the main public foul sewer we have no objection to this proposal.

As acknowledged in the drainage statement if the General Binding Rules cannot be met a permit will need to be applied for. Details about General Binding Rules and the permit applications can be found via these links: <https://www.gov.uk/permits-you-need-for-septic-tanks>

<https://www.gov.uk/permits-you-need-for-septic-tanks/general-binding-rules>

The granting of planning permission does not guarantee a permit will be granted. Pre-application advice can be sought from our Pre-Application Advice Service by submitting the request form through the following link: <https://www.gov.uk/government/publications/environmental-permit-pre-application-advice-form>

It is a requirement that the package treatment plant is used in accordance with the manufacturers guidelines and is emptied on a regular basis. We recommend regular checks are made to ensure the package treatment plant is working effectively and polluting matter is not entering the watercourse.

Condition 6 (existing and proposed site levels)

The submitted drawings 'site level design (sheet 1 of 2)' drawing number 'PL 01' and site level design (sheet 2 of 2)' drawing number 'PL 02' show finished floor levels of the days rooms and static caravans set at 4.6 metres above Ordnance Datum. This is 1.6 metres above ground level and therefore in line with condition 6.

However there is no evidence to demonstrate how this can be achieved in a way that would provide structural integrity to withstand the predicted speed and depths of flood water inundating the site.

Condition 8 (Flood warning and emergency response)

We do not normally comment on or approve the adequacy of flood emergency response procedures, as we do not carry out these roles during a flood. Our involvement with this development during an emergency will be limited to delivering flood warnings to occupants/ users covered by our flood warning network.

Planning practice guidance (PPG) states that, in determining whether a development is safe, the ability of residents and users to safely access and exit a building during a design flood and to evacuate before an extreme flood needs to be considered. One of the key considerations to ensure that any new development is safe is whether adequate flood warnings would be available to people using the development.

In all circumstances where warning and emergency response is fundamental to managing flood risk, we advise local planning authorities to formally consider the emergency planning and rescue implications of new development in making their decisions. As such, we recommend you refer to 'Flood risk emergency plans for new development' and undertake appropriate consultation with your emergency planners and the emergency services to determine whether the proposals are safe in accordance with paragraph 173 of the National Planning Policy Framework and the guiding principles of the PPG.

We have considered the findings of the Flood Warning and Evacuation Plan (prepared by Ellingham Consulting, ref: ECL0712-2) in relation to the likely duration, depths, velocities and flood hazard rating against the design flood for the proposal. This indicates that there will be a danger to most people (e.g. there will be danger of loss of life for the general public).

The Environment Agency's tidal hazard mapping shows that Blazegate Road (the access road to the site) could experience depths between 1-1.6 metres, and over 1.6 metres in certain areas, during a design flood (the 0.5% 2115 event). The main road (A17) to Holbeach will be under water during a design flood, with depths between 0-1 metre. The flood water is likely to have a low velocity (0-0.3m/s) but as explained above the depths could be significant.

We have produced a depth progression map which shows the site would be inundated with water within 6 hours following a breach of the tidal defences. Please note that the progression maps only show the first 24 hours following a breach. Flooding will continue to occur until such time as the breach has been repaired. The finished floor levels have been set to ensure that the dwellings will remain dry in an extreme breach scenario (0.1% 2115 event) and as such, it may be possible for residents to remain in their properties if required.

This does not mean we consider that the access is safe, or the proposals acceptable in this regard. We remind you to consult with your emergency planners and the emergency services to confirm the adequacy of the evacuation proposals.

LCC Highway and Lead Local Flood Authority

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) - it is for the Local Planning Authority to assess/approve this application as H06-0532-23 was a minor application.

South Holland Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant proposes to discharge surface water to a watercourse at a combined rate of 5 l/s via an individual outfall for each plot (1l/s per plot). This is significantly in excess of greenfield rate, however I note that the proposed discharge rate from each outfall is to reduce the risk of blockages in each system, the separate outfalls having been proposed in response to the site's shape and topography that do not support the use of a single gravity outfall.

The discharge of surface water to the watercourses will require consent 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. A surface water development contribution is likely to be payable as a condition of any consent granted under Byelaw 3 in line with the WMA's Development Control Charges and Fees.

Byelaw 3 (Treated Foul Water)

The applicant has indicated that they wish to discharge treated foul water to a watercourse following treatment using package treatment plants on each plot. This proposal will require consent under Byelaw 3.

Section 23, Land Drainage Act 1991

I note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the site boundary. Whilst not currently proposed, 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).

The Board recommends that adequate space (3-5 metres) is left flat and free from obstruction adjacent to the riparian watercourse in order to enable maintenance by future riparian owners or a designated maintenance company/contractor.

Please note that each plot would be required to hold responsibility for the management and maintenance of their adjacent section of private watercourse.

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

Planning Considerations

Condition Details

The conditions detail:

Condition 5(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 three months of the date of this decision a scheme for the means of foul and surface water drainage disposal to separate systems shall have been submitted for the written approval of the

local planning

authority and the scheme shall include a timetable for its implementation.

Surface Water

The applicant proposes to discharge surface water to a watercourse at a combined rate of 5 l/s via an individual outfall for each plot (1l/s per plot). South Holland Drainage Board stated that this is significantly in excess of greenfield rate, however the proposed discharge rate from each outfall is to reduce the risk of blockages in each system, the separate outfalls having been proposed in response to the site's shape and topography that do not support the use of a single gravity outfall.

South Holland Drainage Board has also stated:

The discharge of surface water to the watercourses will require consent 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. A surface water development contribution is likely to be payable as a condition of any consent granted under Byelaw 3 in line with the WMA's Development Control Charges and Fees.

It should be noted that, should the proposed disposal of surface water will NOT be suitable, then the applicant will need to provide details of an alternative scheme to the Local Planning Authority. Discharge to any watercourse will require the prior written consent of the Board.

Foul Water

The applicant has indicated that they wish to discharge treated foul water to a watercourse following treatment using package treatment plants on each plot. Both the Environment Agency and South Holland Internal Drainage Board have raised no objections given the distance from the site to the main public foul sewer.

In conclusion, on balance, the details are acceptable and should be discharged.

Condition 6(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 three months of the date of this decision a scheme showing full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example increased height of boundary treatment) shall have been submitted for the written approval of the local planning authority and the scheme shall include a timetable for its implementation;

The submitted drawings 'site level design (sheet 1 of 2)' drawing number 'PL 01' and site level design (sheet 2 of 2)' drawing number 'PL 02' show finished floor levels of the days rooms and static caravans set at 4.6 metres above Ordnance Datum. This is 1.6 metres above ground level and therefore in line with condition 6. The agent has confirmed that the applicant would need 12 months to complete all of the work.

With regards to Condition 6 the Environment Agency raise a number of issues and concerns however flood risk and drainage and land level matters were all examined in detail under Appeal APP/A2525/W/24/3339458 and the Inspector found the development to be acceptable and in this situation very limited weight can be given to the EA comments with regards to the lack of evidence to demonstrate how the site levels can be achieved in a way that would provide structural integrity to withstand the predicted speed and depths of flood water inundating the site.

In conclusion, on balance, the details are acceptable and should be discharged.

Condition 8(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 three months of the date of this decision a Flood Warning and Evacuation Plan (the FWEP) shall have been submitted for the written approval of the local planning authority and the FWEP shall include a timetable for its implementation. The FWEP shall include (but not be limited to):

- The name of the designated flood warden who will assume overall responsibility for the management of the FWEP;
- The trigger for an evacuation of this site which shall be the issue of Flood Alert code(s) issued by the Environment Agency and the same shall bear the meaning set out in 'Flood Warnings: what they are and what they do' (or any successor document published by the Environment Agency);
- The arrangements made by the operator of the site to register for, receive and continue to receive all forms of Flood Alert/Warning from the Environment Agency's Flood Warning system;
- The arrangements that will be made to ensure every occupier of each caravan is able to leave the site immediately in the event of the issue of a trigger for evacuation, including the arrangements that will be made to ensure persons who may not be able to use their own private car are able to leave the site with the assistance of the operator;
- Details of how the need for evacuation will be communicated to any occupiers of a caravans who are on site at the time of the issue of a trigger for evacuation;
- Provision for the periodic review and updating of the FWEP.

All of the above points are outlined and addressed within the submitted Flood Warning and Evacuation Plan. The designated flood warden would be Mr J Rooney, who would be signed up to the Environment Agency's Floodline Warnings Direct scheme to receive flood warnings. If an alert is received then Mr Rooney would inform all occupants on the site, and the correct procedure will be followed.

In conclusion, on balance, the details are acceptable and should be discharged.

Conclusion

The details in relation to these conditions (5(i), 6(i) and 8(i)) 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.