

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H09-0243-26 **Applicant:** Seagate Homes

Proposal: Residential Development - Erection of 188 dwellings - approved under H09-0287-24. Modification of Condition 1 to allow amendments to previous approved plans, Condition 2 External Materials Schedule and Materials Distribution Plan, Condition 4 Boundary Treatments, Condition 10 Maintenance & Responsibility Plan and Condition 12 Storage & Disposal of Refuse & Recycling as per Site Layout Plan

Location: Land Off Damgate Holbeach Spalding

Terminal Date: 17th July 2026

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
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
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
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	2
RESIDENTS	5	0	1	2

CASE OFFICER ASSESSMENT

Proposal

This application is made pursuant to Section 73 of the Town and Country Planning Act 1990 and seeks planning permission for the development without compliance with Conditions 1, 2, 4, 10 and 12 attached to planning permission H09-0287-24. That permission itself varied an earlier Section 73 approval, with the original planning permission for the residential development having been granted under reference H09-0332-16.

The application does not seek to alter the description of development, which remains the erection of 188 dwellings together with associated infrastructure, landscaping, drainage and public open space. Instead, the proposal seeks approval for a series of amendments to the approved scheme through the variation of the following conditions:

- Condition 1 (Approved Plans) - to substitute a number of approved drawings, including revised site layout plans, affordable housing plans, phase block plans, material distribution plans, boundary treatment plans and maintenance responsibility plans. The revised plans also introduce a number of alternative house types and amend the distribution of dwellings across the site.
- Condition 2 (External Materials) - to approve an updated schedule of external materials and revised material distribution plan across the development.
- Condition 4 (Boundary Treatments) - to amend the approved boundary treatment strategy, including fencing, walls and other means of enclosure throughout the site.
- Condition 10 (Management and Maintenance Arrangements) - to approve updated details relating to the future management and maintenance responsibilities for publicly accessible open space, landscaping and communal infrastructure.
- Condition 12 (Refuse and Recycling Storage) - to amend the approved refuse and recycling collection arrangements, including the location and provision of collection points throughout the development.

In summary, the application seeks approval for amendments to the layout, house type mix, materials, boundary treatments, management arrangements and waste collection strategy, whilst retaining the approved quantum of development and the overall residential-led nature of the scheme

Site Description

The application site comprises approximately 8.41 hectares of land located to the south-west of Holbeach and forms part of a larger residential allocation that has benefited from a series of planning permissions, most recently under planning permission H09-0287-24.

At the time of the original planning permission, the site was predominantly greenfield in nature and comprised agricultural land together with areas of mature landscaping and water features. The site was bounded to the south and east by open agricultural land and drainage watercourses, whilst residential development was located immediately to the north along Fleet Road, Damgate and Greenfields. To the west, the site adjoined open playing fields and recreational land.

The site contains a number of mature trees protected by the Fleet and Holbeach Tree Preservation Order No.1 (1987), together with substantial boundary vegetation and a significant pond feature which form important landscape components of the site. These features remain present and continue to contribute positively to the character of the area and the approved development framework.

Whilst development has now commenced on parts of the wider site, the application site remains readily identifiable as the approved residential development site and retains the principal landscape features, drainage infrastructure and open space network established through the original planning permission.

The site lies within Flood Zone 1 in accordance with the Environment Agency's Flood Risk Maps and is therefore at the lowest probability of flooding from rivers and the sea.

History

H09-0332-16 - Full application - Residential development - erection of 188 dwellings. Approved 3rd May 2018. Subject to a S106 agreement dated 2 May 2018.

H09-0523-20 - Details of Conditions 3, 4, 5, 6, 7, 8, 9, 10, 11, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22 and 23 H09-0332-16. Approved 3rd September 2020.

H09-0277-20 - TPO Tree Works - Works to Fleet and Holbeach Tree Preservation Order No. 1 198.
H09-0230-21 - S.191 Certificate of Lawful Use - The implementation of planning permission H09-0332-16 for residential development on land adjacent to Dam Gate, Holbeach, by works to lay out an access road and foundations for a garage. Approved 23 March 2021.

H09-1081-19 - Modification of 106 Agreement to reduce amount of affordable housing from 33.3% to 25% (Planning Approval H09-0332-16). Notice of Non Determination - 20th January 2023.

H09-0372-23 - Modification of S106 Agreement relating to the reduction of affordable housing. Approved 15.1.2024.

H09-0287-24 - Residential Development - Erection of 188 Dwellings - approved under H09-0332-16. Modification of Condition 2 to allow amendments to previously approved plans. Approved 08-08-24

H09-0125-25 - Residential development - Erection of 188 dwellings - Approved under H09-0287-24. Modification of Conditions 1 and 2 to allow amendments to previously approved plans. Approved 08-05-25

Officer comments on Planning History

Planning permission H09-0287-24 granted planning permission under Section 73 of the Town and Country Planning Act 1990. Subsequently, planning permission H09-0125-25 approved further amendments to the development, including revised house types, garage positions and dwelling designs.

The current application seeks a further variation of conditions attached to planning permission H09-0287-24. Whilst officers note the existence of H09-0125-25, the submitted application is accompanied by a complete replacement package of plans and supporting information. The proposal has therefore been assessed on its own merits, having regard to the planning history of the site and the relationship between the various extant permissions

Consultation Responses

Anglian Water

Thank you for your email consultation on H09-0243-26 | Variation of conditions 1, 2, 4, 10 and 12 to approved planning application H09-0287-24. We have reviewed the submitted documents with the variation of condition and there are no drainage related documents therefore we are unable to make comments on the above application.

South Holland IDB

The IDB confirms that although the current application itself does not directly relate to drainage matters, the applicant already benefits from several existing permanent consents for the site, including permissions for surface water discharge, construction of an access culvert over Brick Pits drain, and works within 9 metres of the arterial watercourse (including utilities and the access road).

They emphasise that no changes to discharge arrangements, watercourses, or any works within 9 metres of the watercourse can be undertaken without further prior written consent. This includes temporary construction-related activities such as de-watering, temporary crossings, fencing, or signage.

The Board raises concern about previous construction impacts, noting that insufficient silt control during works led to silt deposition in Brick Pits drain. They request that future construction method statements include robust silt containment measures, particularly for de-watering or over-pumping, and warn that remediation costs may be sought if activities are not properly managed.

They also highlight damage occurring to the highway verge along Dam Gate due to construction traffic. They note potential Highways proposals such as kerbing or traffic calming, but stress that any works within 9 metres of the watercourse would require IDB consent. They also raise concerns about the risk of verge collapse and vehicles entering the watercourse.

In relation to planning conditions, they raise no objections to most, but provide specific comments:

- Boundary treatments: No fencing, trees, or planting within 9 metres of the watercourse without IDB consent.
- Maintenance plan: Confirmation that highways adoption under S38 is noted, but the culvert must remain replaceable in future if required, and public open space must not obstruct IDB flood risk operations, including access for maintenance and spoil deposition.
- Refuse condition: No comments.

Overall, the IDB does not object to the proposals but reiterates strict controls over works near the watercourse, raises concerns about construction impacts already experienced, and emphasises the need to protect access for future flood risk management operations

Environment Agency

Thank you for consulting us on the above application, on 25 March 2026. We have reviewed the submitted documents and have no objections to the variation of Conditions 1, 2, 4, 10 and 12; however, as Condition 3 (FRA implementation) is still relevant, we would like it carried through to any new permission granted.

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Highways & SuDs Support

No objections - The proposal is for minor amendments to Condition 1 that already has approval under H09- 0287-24. The minor amendments proposed will not have an adverse impact upon the public highway or surface water flood risk.

Historic Places Team

Thanks for consulting us on this Section 73 modification. We reiterate our previous comments dated 23rd April 2024 on H09-0287-24

Environmental Protection

No comments regarding amendments to conditions 1, 2, 4, 10 and 12. My previous comment under approved application H09-0287-24 remains the same and I request a standard land contamination condition be applied at this location

Lincolnshire Police

Lincolnshire Police do not have any objections to the S73 modification of the application.

Representations

The application has been advertised in accordance with the Development Management Procedure Order 2015 (as amended). A number of objections have been received they are summarised as follows:

- Objector is concerned revised plans replace a small number of large dwellings with multiple smaller (social/affordable) units behind their property.
- States they were previously advised only a few large houses with sizeable gardens would be built, providing greater separation.
- Believes the revised layout reduces separation, increases overlooking, and may increase noise impacts.
- Feels misled and says they would not have purchased the property had they known the revised arrangement.
- Notes overall dwelling numbers remain the same, but layout/positioning has changed significantly.
- Raises concern about potential property devaluation.
- Asks whether council tax band could be reviewed as a result.
- Impact from Noise & Disturbance
- Ecology Impacts
- Residential amenity impacts/relating to the location of the pumping station
- Expresses concern that their objection may carry limited weight due to being one of only a small number of affected households.
- On the grounds of environmental impact due to foul water overflow into drainage dyke & foul water smells impacting local residents
- General flooding concerns
- Provision for Swifts should be made
- Concerns with character/materials

Evaluation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036 forms the statutory development plan for the District. The provisions of the National Planning Policy Framework are also material considerations.

There are no adopted Neighbourhood Plans relevant to the site, and the Authority is able to demonstrate a deliverable housing land supply in excess of five years.

Evaluation - Section 73

This application is made pursuant to Section 73 of the Town and Country Planning Act 1990, which enables the variation of conditions attached to an existing planning permission.

In determining such applications, the Local Planning Authority is required to consider only the acceptability of the proposed variation to the condition(s) in question. The principle of development has already been established and is not subject to reconsideration.

If approved, a new standalone planning permission would be issued with the varied condition, alongside the re-imposition of relevant conditions from the original consent. The original permission would remain extant.

Planning Considerations

Principle of Development and Scope of Section 73

Section 73 of the Town and Country Planning Act 1990 enables applications to be made for development without compliance with conditions previously attached to a planning permission. In determining such applications, the Local Planning Authority is required to consider only the acceptability of the proposed amendments and the conditions subject to variation. The principle of residential development on the site has already been established through planning permission H09-0332-16 and subsequent Section 73 permissions, most recently H09-0287-24.

The application seeks to vary Conditions 1, 2, 4, 10 and 12 relating to approved plans, materials, boundary treatments, management responsibilities and refuse collection arrangements. The proposal does not alter the description of development and the development would continue to comprise 188 dwellings.

The principal access arrangements remain unchanged, the approved drainage infrastructure remains unchanged, the approved areas of public open space remain substantially unchanged and the overall affordable housing provision secured through the Section 106 Agreement is retained. Whilst the layout has been amended and a number of alternative house types introduced, the overall character, scale and form of the development remain consistent with the approved scheme.

The Local Planning Authority is therefore satisfied that the proposal remains fundamentally the same development as previously approved and that determination under Section 73 is appropriate.

Design, Layout and Built Form (Condition 1)

Policy 2 of the South East Lincolnshire Local Plan (2019) requires development proposals to achieve sustainable development having regard to matters including size, scale, layout, density, character and appearance and the relationship with existing development and land uses. Policy 3 further requires development to be designed positively and to contribute towards local distinctiveness and a strong sense of place.

The application seeks approval for a revised suite of plans including an amended Site Layout Plan, revised Phase 2 Block Plan and the introduction of a number of alternative house types across the development. The principal development remains unchanged, including the primary vehicular access arrangements, internal road hierarchy (with the exception of the spur road to the north-west of the scheme), strategic landscaping, attenuation features, public open space provision and affordable housing delivery.

The amendments principally comprise revisions to the positioning of individual plots, the substitution of approved house types with alternative dwelling designs and amendments to the distribution of housing across particular phases of the development. New dwelling types introduced include the Balmoral, Blenheim, Felbrigg, B810 and B985 house types together with a number of revised affordable housing units. The omitted Belton house type is replaced by a range of alternative designs which continue to provide variety throughout the development whilst maintaining a consistent architectural approach.

The revised layout continues to provide a hierarchy of dwelling sizes across the site. The development incorporates smaller one and two-bedroom dwellings, including the Type 1, Felbrigg, B810 and Hampton house types, together with larger family accommodation including the Balmoral, Kingston, Holkham, Windsor and Buckingham house types. This range of accommodation remains consistent with the objectives of creating a mixed and sustainable residential community

Having reviewed the submitted layout, it is considered that the revised arrangement continues to provide a legible development structure with active frontages, strong enclosure of streets and appropriate relationships between dwellings, open spaces and landscaped corridors. The amended layout maintains adequate separation distances, parking provision and private amenity areas and would continue to provide a high-quality living environment for future residents.

Whilst the revised scheme introduces a greater variety of house types, the overall scale, density and character of the development remain broadly consistent with the approved scheme. The amendments are therefore not considered to fundamentally alter the character or appearance of the development previously found acceptable.

The proposal is therefore considered to accord with Policies 2 and 3 of the South East Lincolnshire Local Plan.

Treatment and Management of Land Identified for Potential Future Applications

The submitted plans identify two parcels of land annotated as "Area to be Considered Under Separate Full Application". No built development is proposed within these areas as part of the current Section 73 application but given they are located within the red line boundary they do therefore form part of the development proposals requiring detailed assessment under this application.

The parcels occupy prominent positions within the wider development and will form part of the visual setting and overall character of the completed scheme. Whilst no specific use is proposed for the land at this stage, it is considered that an appropriate landscape-led treatment of these areas would provide a visual betterment to the development, contributing positively to the overall character, appearance and legibility of the scheme. Such an approach would assist in reinforcing the quality of the development and would align with the objectives of development plan policies relating to good design, landscape character and visual amenity.

In the absence of an agreed approach to their treatment and management, there is potential for these areas to appear as residual or unmanaged land, which would detract from the quality, appearance and visual amenity of the development. It is therefore considered necessary and reasonable to secure details of the proposed treatment, landscaping and management of these areas through a planning condition.

It is acknowledged that the applicant may seek planning permission for alternative forms of development on these parcels at a future date. As such, it would be neither necessary nor reasonable to require the land to be retained as public open space or otherwise constrain the consideration of any future planning application. Any future proposals would be assessed on their own planning merits having regard to the Development Plan and other material considerations prevailing at the time of determination.

For the avoidance of doubt, the grant of planning permission pursuant to this Section 73 application would not establish any principle of development for these parcels beyond that approved under the extant planning permissions. Should future development proposals come forward on these areas, they would be considered in the context of the wider approved development, including any requirements arising in respect of planning obligations, infrastructure provision and other mitigation measures associated with the comprehensive development of the site.

Accordingly, a condition is recommended requiring the submission and approval of a Landscape and Land Management Scheme for these parcels, including details of their appearance, landscaping and future management arrangements. Subject to this condition, the proposed approach is considered acceptable and would secure an appropriate contribution to the character and appearance of the development whilst not prejudicing the future consideration of any subsequent planning application relating to the land.

Affordable Housing Provision

Policy 18 of the South East Lincolnshire Local Plan seeks to secure the provision of affordable housing to meet identified needs across the District.

The submitted Affordable Housing Plan demonstrates that the development continues to provide 47 affordable dwellings across the site, equating to 25% of the total development, consistent with the requirements secured through the Section 106 Agreement. The revised plan redistributes affordable housing plots across the development but does not reduce either the quantity or overall provision previously approved.

The affordable units remain integrated throughout the development rather than being concentrated within a single location. This approach assists in creating a mixed and balanced community and reflects the placemaking objectives of the Local Plan.

The Affordable Housing Plan demonstrates that affordable housing remains integrated throughout the development and includes a range of dwelling sizes and house types rather than being concentrated within a single location or limited to one form of accommodation. This approach

accords with the objectives of Policy 18.

The proposed amendments therefore do not prejudice the delivery of affordable housing secured through the approved development and remain compliant with Policy 18 of the South East Lincolnshire Local Plan and the existing Section 106 Agreement.

External Materials and Appearance (Condition 2)

Policies 2 and 3 of the South East Lincolnshire Local Plan require development to achieve a high quality design which responds positively to local character and appearance.

The revised Material Distribution Plan and External Materials Specification introduce a varied palette of facing bricks, roof tiles and architectural detailing across the development. The proposed materials include a range of complementary brick colours together with contrasting roof finishes and occasional feature materials.

The revised Material Distribution Plan shows a varied and coordinated palette of external materials across the development. These include a combination of facing brickwork, Russell Galloway Anthracite Double Pantile roof tiles, areas of Rustic Natural Stone facings and sections of Cedral black fibre-cement cladding (C50) used as feature elements on selected plots. The use of contrasting materials, together with the distribution of different house types throughout the site, assists in breaking up the visual mass of the development and avoids excessive repetition of built form.

The revised material palette would provide visual interest across the development whilst maintaining a cohesive appearance. The proposals avoid excessive repetition and would assist in creating a visually attractive residential environment.

The Historic Places Team raises no objection to the proposed amendments.

The revised materials are considered acceptable and comply with Policies 2 and 3 of the South East Lincolnshire Local Plan.

Boundary Treatments (Condition 4)

Policies 2 and 3 of the South East Lincolnshire Local Plan require development to provide appropriate enclosure, privacy and visual quality.

The submitted Boundary Treatment Plan provides a mixture of fencing, walls, estate railings and landscape treatments throughout the development. The proposed boundary treatments remain appropriate to their respective locations and would continue to provide satisfactory levels of privacy and security for future occupiers.

The revised arrangements maintain a clear distinction between public and private spaces whilst contributing positively to the overall appearance of the development.

The proposal is therefore considered acceptable in relation to Policies 2 and 3 of the South East Lincolnshire Local Plan.

Public Open Space and Management Arrangements (Condition 10)

Policy 32 of the South East Lincolnshire Local Plan seeks to ensure development contributes positively towards community health, wellbeing and the provision of green infrastructure.

The proposed amendments do not reduce the extent of public open space previously approved. The principal areas of open space, attenuation features, landscaped corridors and ecological areas remain substantially unchanged.

The submitted Maintenance Responsibility Plan clearly identifies those areas that will be adopted by statutory undertakers, maintained by a management company or retained in private ownership. These arrangements provide a robust framework for the future maintenance and management of communal infrastructure and open space.

The amendments therefore continue to satisfy the requirements of Policy 32.

Waste Collection Arrangements (Condition 12)

Policies 2, 3 and 30 of the South East Lincolnshire Local Plan require development to function effectively whilst safeguarding residential amenity.

The revised layout incorporates updated refuse and recycling collection arrangements. The collection points identified on the submitted plans are appropriately located and remain accessible for future residents and collection vehicles.

The amended arrangements would not adversely affect visual amenity, residential amenity or the operation of the development and are considered acceptable.

Residential Amenity

Policy 2 of the South East Lincolnshire Local Plan requires development to have regard to residential amenity and relationships with neighbouring land uses. Policy 30 seeks to ensure that development does not result in unacceptable impacts arising from noise, disturbance or other forms of pollution.

Representations have raised concerns regarding overlooking, privacy, noise and the revised layout. These matters have been carefully considered.

Whilst a number of plots have been repositioned and alternative house types introduced, the development continues to provide acceptable separation distances between dwellings. The amended layout does not result in unacceptable overlooking, overshadowing or overbearing impacts upon neighbouring occupiers and maintains an acceptable standard of amenity for future residents.

The living conditions of future occupiers are also an important consideration. The revised layout continues to provide each dwelling with access to private amenity space appropriate to the size and type of property proposed. The development retains the established hierarchy of streets, open spaces and landscaped areas approved under the original permission, together with convenient access to public open space, pedestrian routes and areas of informal recreation throughout the site.

The amended house types continue to provide accommodation that meets modern residential expectations and the development would provide a satisfactory level of outlook, privacy and natural light for future residents. Adequate parking provision remains available throughout the development and the revised layout does not give rise to any unacceptable relationships between dwellings that would materially diminish residential amenity.

Concerns relating to property values and council tax are not material planning considerations and therefore carry no weight in the determination of this application.

Accordingly, the proposal would continue to provide a high-quality living environment for future occupiers and would comply with Policies 2 and 30 of the South East Lincolnshire Local Plan

The amended scheme is considered acceptable in residential amenity terms and complies with Policies 2 and 30 of the South East Lincolnshire Local Plan.

Highways and Access

Policy 2 of the South East Lincolnshire Local Plan requires development to have regard to accessibility and vehicle generation. Policy 3 seeks to ensure development is accessible by a range of transport modes, whilst Policy 36 requires the provision of appropriate vehicle and cycle parking. These policies are consistent with Chapter 9 of the National Planning Policy Framework, which seeks to promote sustainable transport and advises that development should only be prevented or refused on highways grounds where there would be an unacceptable impact on highway safety, or where the residual cumulative impacts on the road network would be severe.

Lincolnshire County Council, as Highway Authority, has reviewed the Section 73 proposals and raises no objection to the development. The principal vehicular access arrangements remain unchanged from those previously approved, as does the overall development quantum of 188 dwellings. The amended scheme continues to provide an internal road hierarchy capable of serving

the development together with appropriate parking provision, turning facilities and pedestrian connectivity throughout the site.

The revised layout includes amendments within the north-western part of the development site which result in the rationalisation and partial removal of a section of the previously approved internal road network. However, the amendments do not introduce additional dwellings, increase traffic generation, alter the principal means of access, affect visibility splays or modify the wider highway infrastructure serving the site. Rather, the changes result in a reduction in the extent of internal highway infrastructure previously approved.

Having reviewed the amended layout, it is considered that the changes would not give rise to any new highway safety concerns, nor would they materially affect the operation, functionality or capacity of the approved highway network. Officers are satisfied that the amended plans do not materially alter the highway impacts previously assessed by the Highway Authority. Accordingly, the no objection position previously adopted by the Highway Authority remains a material consideration in the assessment of the application.

The amendments would not result in an unacceptable impact upon highway safety, accessibility or the operation of the surrounding highway network. The proposal therefore complies with Policies 2, 3 and 36 of the South East Lincolnshire Local Plan.

Flood Risk and Drainage

Policy 4 of the South East Lincolnshire Local Plan seeks to ensure that development is appropriately located and designed having regard to flood risk and drainage considerations.

The application does not seek to vary the approved flood risk or drainage conditions. The approved drainage strategy, attenuation features and flood mitigation measures therefore remain in place.

Both the Environment Agency and the Lead Local Flood Authority raise no objection to the proposed amendments. The changes proposed under this application do not materially affect the approved drainage strategy or flood risk assessment.

Accordingly, the proposal remains acceptable in relation to Policy 4 of the South East Lincolnshire Local Plan.

Ecology and Biodiversity

Policy 28 of the South East Lincolnshire Local Plan seeks to protect and enhance biodiversity and ecological networks.

The amendments do not materially alter the approved ecological mitigation strategy or biodiversity enhancement measures secured under the existing planning permission. The principal areas of landscaping, attenuation features and ecological infrastructure remain substantially unchanged.

No technical objections have been raised in relation to ecology and the approved ecological conditions would continue to apply.

The proposal therefore remains compliant with Policy 28 of the South East Lincolnshire Local Plan.

Re-imposition of Planning Conditions

Section 73 of the Town and Country Planning Act 1990 enables the Local Planning Authority to grant a new planning permission subject to different conditions. The effect of granting planning permission under Section 73 is the creation of a new planning permission sitting alongside the extant permission, rather than an amendment to the original permission.

The Local Planning Authority must therefore consider which conditions attached to planning permission H09-0287-24 remain necessary, relevant, enforceable, precise and reasonable having regard to the amended scheme and the tests set out within the National Planning Policy Framework and Planning Practice Guidance.

The amendments proposed under this application relate principally to the approved plans, materials, boundary treatments, management arrangements and refuse collection strategy. The development

would otherwise remain substantially unchanged from that previously approved.

Having reviewed the planning history, consultation responses and supporting documentation, it is considered necessary and appropriate to re-impose the majority of conditions attached to planning permission H09-0287-24. These conditions continue to serve a planning purpose and remain necessary to regulate matters including landscaping, ecological mitigation, drainage, flood risk, highways, contamination, construction management, affordable housing delivery and the long-term management of the development.

Conditions 1, 2, 4, 10 and 12 require updating to reflect the revised plans and supporting documents submitted as part of the current application. The remaining conditions are considered to remain relevant and necessary and should be re-imposed in substantially the same form as previously approved.

Likewise, other conditions have been altered as a necessity, given that the amended scheme would require a change or amendment in previously permitted detail, such as landscaping.

Subject to the re-imposition of those conditions, the Local Planning Authority is satisfied that the amended development can be appropriately controlled and that the resulting planning permission would remain acceptable in planning terms.

Section 106 Agreement

The wider residential development is subject to a Section 106 Agreement which secures a range of planning obligations, including affordable housing provision, public open space and associated management arrangements.

The current application is submitted pursuant to Section 73 of the Town and Country Planning Act 1990 and would, if approved, result in the grant of a new planning permission. It is therefore necessary to consider whether the obligations secured through the existing Section 106 Agreement would continue to apply to any replacement permission.

In this instance, a Deed of Variation completed in connection with application H09-0372-23 introduced a specific Section 73 Clause into the legal agreement. As detailed within paragraph 8.13 of that agreement, that clause was expressly drafted to ensure that any subsequent planning permission granted under Section 73 for the development would continue to be bound by the obligations contained within the Section 106 Agreement.

The proposed amendments relate to the approved plans, materials, boundary treatments, management arrangements and refuse collection facilities only. The application does not seek to alter the approved quantum of development, reduce the affordable housing provision or modify any of the obligations secured through the legal agreement.

Accordingly, the Local Planning Authority is satisfied that the existing Section 106 Agreement would continue to apply to any planning permission granted pursuant to this application by virtue of the Section 73 Clause already incorporated into the Agreement. The planning benefits secured through the Agreement, including affordable housing delivery and long-term management obligations, therefore remain fully protected and enforceable.

Planning Balance

The principle of residential development on the site has already been established and is not subject to reconsideration through this application.

The amendments comprise revisions to the approved layout, house types, materials, boundary treatments, management arrangements and refuse collection facilities. Having carefully assessed the proposed changes, the Local Planning Authority is satisfied that the amended scheme remains fundamentally the same development as previously approved.

The amendments would not result in unacceptable impacts upon visual amenity, residential amenity, highway safety, flood risk, drainage infrastructure, biodiversity, public open space provision or affordable housing delivery. No technical objections have been raised by statutory consultees.

The benefits of bring forward this scheme, and the updated design approach sought by this application is considered acceptable.

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

The proposal is considered to accord with Policies 2, 3, 4, 18, 28, 30, 32 and 36 of the South East Lincolnshire Local Plan (2019), together with the relevant provisions of the National Planning Policy Framework (2024).