DECISION DELEGATED TO HEAD OF PLANNING

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| **Application No:** | **H09-0877-22** | **Applicant:** | **Mr J Caley & Miss Neve** |
| **Proposal:** | Details of external materials, contamination of land or pollution of controlled waters, foul water disposal and ecological biodiversity measures. (Conditions 3, 5, 7 and 8 of H09-0490-22) | | |
| **Location:** | Hollands 120 Dog Drove North Holbeach Drove | | |
| **Terminal Date:** | 13th January 2023 | | |

**Planning Policies**

**South East Lincolnshire Local Plan - Adopted: March 2019**

| | |
|---|---|
| 02 | Development Management |
| 03 | Design of New Development |
| 04 | Approach to Flood Risk |
| 30 | Pollution |
| 28 | The Natural Environment |

**National Guidance**

**National Planning Policy Framework 2021**

NPPF 2021

Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well designed places
Section 15 - Conserving and enhancing the natural environment

**Representations:**

| | Object | Support | No Obj. | Comments |
|---|---|---|---|---|
| SOUTH HOLLAND INTERNAL DRAINAGE BOARD | 0 | 0 | 0 | 1 |
| SHDC INTERNAL | 0 | 0 | 0 | 1 |

**CASE OFFICER ASSESSMENT**

**Proposal**

Details of external materials, contamination of land or pollution controlled waters, foul water disposal and ecological biodiversity measures (Conditions 3, 5, 7 and 8 of H09-0490-22).

## Site Description

As per host consent.

## History

H09-0490-22 - FULL - Demolition of Existing dwelling and erection of new dwelling - Approved 11.07.2022

## Consultation Responses

Internal Drainage Board

The applicant has indicated that they intend to dispose of treated foul water via infiltration, but no evidence of viability of this proposal produced. Ground investigation recommended to determine infiltration potential, followed by testing in line with BRE Digest 365. If infiltration not feasible at this site and the applicant proposes to discharge treated foul water to a watercourse, consent would be required under Byelaw 3.

Subsequently, the agent applied for consent directly from the IDB to discharge foul water into the watercourse and consent was obtained and the details were forwarded to the Local Planning Authority for confirmation. The IDB were then re-consulted to confirm if condition 7 could be discharged.

The IDB conformed that condition 7 can now be discharged.

SHDC Environmental Protection

*Initial Comments*

I have reviewed the Humberside Materials Laboratory 'Phase 1 (Desk Study) Report 120 Dog Drove North, Spalding' ref 1488/5885/P/P1 rev 0.0 dated August 2022 and am in general agreement with the findings. The report recommends that a Phase 2 exploratory investigation is required, and I look forward to receiving this in due course.
I therefore recommend discharge of part i of condition 5 of H09-0490-22, with parts ii and iii remaining outstanding.

It should be noted that a Phase 2 report was submitted and Environmental Protection were consulted.

*Comments following submission of Phase 2*

The Environmental Protection Officer sought a location plan to define the area relating to the Phase 1 and Phase 2 study. This was received on the 10th January 2023. Her comments are as follows:

I have reviewed the Humberside Materials Laboratory 'Phase 2 (ground investigation ) Report 120 Dog Drove North, Spalding' ref 1488/5885/P/P2 rev 0.0 dated November 2022 and am in general agreement with the findings. I therefore recommend discharge of condition 5 of H09-0490-22 in full.

## Planning Considerations

Condition 3

*Condition 3 - Before the commencement of the development hereby permitted beyond oversite a schedule of external materials of construction of buildings and hard surfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the materials so approved.*

The details are:
External walls - a mixture of red facing brickwork (Ibstock Leicester Weathered Multi Stock), light

grey coloured render and Western Red Cedar vertical cladding. Garage - solely red facing brickwork.
Roof - Calderdale Edge Dark Grey. Flat roof to the dwelling - dark grey GRP covering.
Windows & Doors - Moss Green RAL 6005
UPVC flush casements. The doors - UPVC or composite - same colour.
The garage door -aluminium section garage door and will also be finished in RAL 6005.
Hardstanding - Patio areas and paths - external porcelain tile with a cobble edging.
Driveway and turning area to the front of the garage - golden gravel.
Remainder of the external areas - lawn.

The details are set out in the Discharge of Conditions supporting document and are considered acceptable.

Condition 5

*Condition 5 The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA).*

*The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:*
*i) A preliminary risk assessment (desk study) shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). A full copy of the desk-top study and a non-technical summary shall be submitted to the LPA without delay upon completion.*
*ii) If identified as being required following the completion of the desk-top study, an exploratory site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed end use. A full copy of the site investigation and findings shall be forwarded to the LPA without delay upon completion.*
*iii) Thereafter, a written method statement detailing the remediation strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion shall be submitted to and approved in writing by the LPA. This shall include details of the proposed verification plan including compliance criteria and monitoring details.*

*No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.*

A desk top contamination report was prepared by Humberside Materials Laboratory which recommended that samples should be taken and tested from a number of areas across the site. This was due to be carried out on 14th September 2022. This represents the Phase 1 Desk Report as required under point (i) of condition 5. Environmental Protection reviewed this and concluded that this element could be discharged.

The contamination report recommended an exploratory site investigation which was carried out. This accords with condition (ii) of condition 5.

A ground investigation report (Phase 2) was submitted which conformed with element (iii) of condition 5.

Environmental Protection reviewed the Phase 2 report and concluded that the details associated with phases 1 and 2 are acceptable and as a result it is considered that these details can be discharged in full. This means that all of condition 5 can now be fully discharged.

Condition 7

*Condition 7 - Before the commencement of the development hereby granted, details of the means*

*of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.*

The foul water will be disposed of via a domestic waste treatment plant located in a suitable place within the site, the treated waste water from this will then be distributed into the ground via a suitably designed soakaway.

The Internal Drainage Board has recommended that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365.

If infiltration is not feasible, consent would be required under Byelaw 3 if discharging treated foul water into a watercourse.

Subsequently, consent was obtained to discharge foul water into the watercourse. The IDB were re-consulted to confirm if condition 7 could be discharged. The IDB confirmed that the condition 7 could be discharged.

The details associated with condition 7 are satisfactory and as a result and this element can be discharged.

Condition 8

*Before the commencement of the development hereby permitted beyond oversite full details of ecological biodiversity measures to be installed in conjunction with the development shall be submitted to and approved in writing by the Local Planning Authority. The measures shall thereafter be constructed/installed in accordance with the details so approved prior to the development being brought into use and shall thereafter be retained.*

2no. swift boxes will be installed to the rear elevation of the garage and a bat box will also be installed at high level to the gable of the garage. It is also plausible to install an owl box at high level as the openness of the site is likely to be a place owls would naturally roost.

The submitted details are considered appropriate to discharge condition 8.

## Conclusion

Condition 3 can be discharged.
Condition 5 can be discharged.
Condition 7 can be discharged.
Condition 8 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.