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REF: 3310-18

**RESIDENTIAL DEVELOPMENT
OFF MARKET STREET
LONG SUTTON
SPALDING
LINCS
PE12 9DF**

SINGLE BUILDING PLOT

FOR

MR & MRS J POWLEY



PLANNING, DESIGN & ACCESS STATEMENT

**RESIDENTIAL DEVELOPMENT
OFF MARKET STREET
LONG SUTTON
SPALDING
LINCS
PE12 9DF**

This application is a re-application of H11-0085-19, which was refused on the 25th March 2019, for the following reasons:-

1. *The proposal could be deliverable and would help to provide the supply of housing required to meet the needs to present and future generations. However, the benefits are outweighed by the harm that the proposal would cause in terms of the development's effect upon the character and appearance and amenity of the area. This would be accentuated by the fact that finished floor levels would need to be raised by 1 metre to address flood risk. In the opinion of the Local Planning Authority the proposal constitutes an inappropriate and cramped form of backland development that would be harmful effect upon the existing character of the area and would prejudice the continued existence of trees the subject of Long Sutton Tree Preservation Order no. 26, 1998. Moreover, the proposal would have a harmful effect upon the amenity of nearby residents, including occupants of Nos. 46 and 48 Market Street, in terms of lack of privacy and noise and disturbance created by additional vehicles using the private drive.*

The site is not therefore considered to be suitable site for housing with particular regards to the principles of sustainable development and the protection of the character and amenity of the area. The proposal is contrary to Policy 2 (Development Management) of the South East Lincolnshire Local Plan (March 2019) and advice within the National Planning Policy Framework, 2019. Policy 2 of the SELLP indicates that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses, disturbance, etc. Paragraphs 122 and 127 of the Framework indicate that new development should be sympathetic to and maintain and area's prevailing character.

2. *The South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is located within an area identified as "Danger to Most". It is possible for new housing to be delivered on sites that are in locations that are more environmentally sustainable and of lower flood risk. The proposal therefore fails to satisfy the sequential test. It is considered that the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to Policy 4 of the South East Lincolnshire Local Plan*

and advice within paragraph 158 of the National Planning Policy Framework, 2019.

Since application H11-0085-19 was refused considerable discussions have taken place between The Environment Agency and the flood risk consultant, Geoff Beel Consultancy, therefore this re-application includes the amended site specific Flood Risk Assessment which concludes the following:-

“Finished floor level of the dwelling has been raised 500mm above existing ground level with flood resilient construction up to 500mm above finished floor level”

The indicative dwelling suggested is a chalet style cottage to reduce the buildings height and effect on neighbouring properties, distances to neighbouring dwellings are also indicated. Distances vary from 16 metres to 27 metres, heights of the indicative dwelling are also shown which will have minimal impact on neighbouring properties.

APPLICATION PLANS & DOCUMENTS

3310-18-13 – Site & Location Plan – Existing
3310-18-14 – Site & Location Plan – Proposed
3310-18-15 – Indicative Dwelling Design
3427 Tree survey by Andrew Belson
Dimensional Plan A3
Flood Risk Assessment by Geoff Bell Consultancy
Tree Preservation Order No 26 1998
Letters of Support

G R Merchant
August 2019

APPENDIX

LOCATION PLAN 1/2500

GOOGLE SITE PLANS

REFUSAL NOTICE H11-0085-19

FLOOD RISK ASSESSMENT

TREE PRESERVATION ORDER DOCUMENT NO. 26 1998

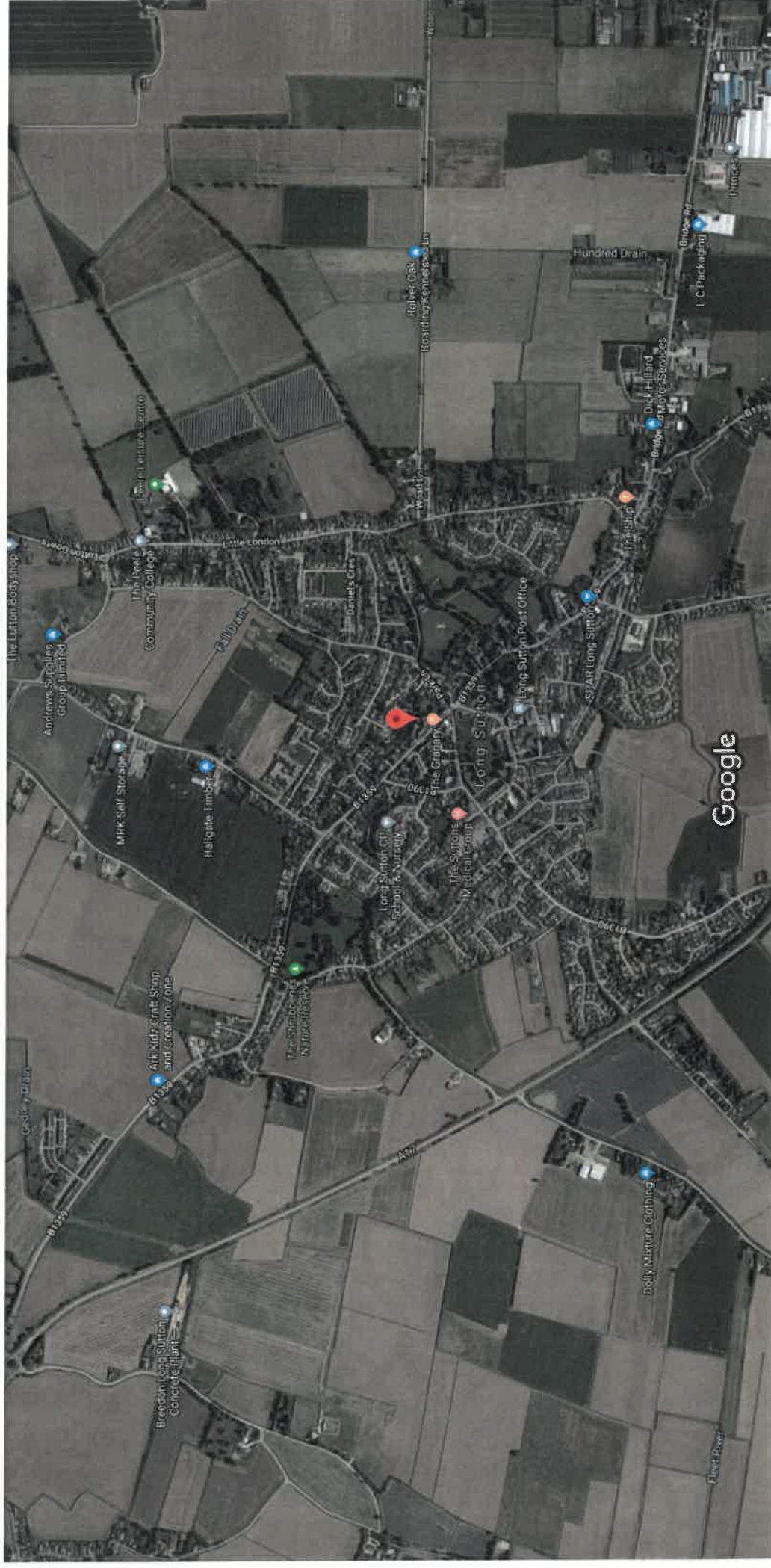
LETTERS OF SUPPORT

LOCATION PLAN 1/2500



LOCATION PLAN.
1/2500.

GOOGLE SITE PLANS



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REFUSAL NOTICE H11-0085-19

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TOWN AND COUNTRY PLANNING ACT 1990

OUTLINE

Reference:	H11-0085-19	Date of Decision:	25th March 2019
Applicant:	Mr & Mrs J Powley 46 Market Street Long Sutton Spalding Lincs PE12 9DF		
Location:	Off Market Street Long Sutton Spalding Lincs		
Description:	Residential development (1 plot)		

South Holland District Council hereby give notice that this application has been REFUSED for the above proposal for the following reason(s):

- 1 The proposal could be deliverable and would help to provide the supply of housing required to meet the needs of present and future generations. However, the benefits are outweighed by the harm that the proposal would cause in terms of the development's effect upon the character and appearance and amenity of the area. This would be accentuated by the fact that finished floor levels would need to be raised by 1 metre to address flood risk. In the opinion of the Local Planning Authority the proposal constitutes an inappropriate and cramped form of backland development that would have a harmful effect upon the existing character of the area and would prejudice the continued existence of trees the subject of Long Sutton Tree Preservation Order no. 26, 1998. Moreover, the proposal would have a harmful effect upon the amenity of nearby residents, including occupants of nos. 46 and 48 Market Street, in terms of lack of privacy and noise and disturbance created by additional vehicles using the private drive.

The site is not therefore considered to be a suitable site for housing with particular regards to the principles of sustainable development and the protection of the character and amenity of the area. The proposal is contrary to Policy 2 (Development Management) of

the South East Lincolnshire Local Plan (March 2019) and advice within the National Planning Policy Framework, 2019. Policy 2 of the SELLP indicates that sustainable considerations should be met in terms of impact upon the character and appearance of the area and the relationship to existing development and land uses, as well as impact upon neighbouring land uses by reason of noise, disturbance, etc. Paragraphs 122 and 127 of the Framework indicate that new development should be sympathetic to and maintain an area's prevailing character.

- 2 The South East Lincolnshire Strategic Flood Risk Assessment indicates that the site is located within an area identified as "Danger to Most". It is possible for new housing to be delivered on sites that are in locations that are more environmentally sustainable and of lower flood risk. The proposal therefore fails to satisfy the sequential test. It is considered that the proposal would not provide wider sustainability benefits to the community that outweigh flood risk. The proposal is therefore contrary to Policy 4 of the South East Lincolnshire Local Plan and advice within paragraph 158 of the National Planning Policy Framework, 2019.

Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise. However, the issues are so fundamental to the proposal, due to the harm which has been clearly identified within the reasons for the refusal, that approval has not been possible.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at <http://planning.sholland.gov.uk/OcellaWeb/planningSearch>

The determined plans are:

3310-18/10;

3310-18/11A;

3310-18/12;

Flood Risk Assessment by Geoff Beel Consultancy (Ref: GCB/MERCHANT) Dated January, 2019.



Phil Norman
Planning and Building Control Manager
South Holland District Council

BUILDING REGULATIONS:

This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact

the Building Control section for further information on 01775 764557 or bcadmin@sholland.gov.uk

FLOOD RISK ASSESSMENT

**FLOOD RISK ASSESSMENT
FOR PROPOSED
RESIDENTIAL DEVELOPMENT
AT 46 MARKET STREET, LONG SUTTON,
LINCS.**

REVISED FINAL REPORT

GEOFF BEEL CONSULTANCY

AUGUST 2019

GCB/MERCHANT

DISCLAIMER

This document has been prepared solely as a Flood Risk Assessment in support of a planning application for proposed Residential Development at land to the rear of 46 Market Street, Long Sutton, Lincolnshire. "Geoff Beel Consultancy" accepts no responsibility or liability whatsoever for any use made of this document other than by the client "Mr & Mrs J Powley" for the purposes it was originally commissioned and prepared. All comments and opinions made are based upon information available to "Geoff Beel Consultancy" during the necessary investigative process, and the conclusions and recommendations could therefore, differ in the event of material subsequently being found erroneous, incomplete or misleading. "Geoff Beel Consultancy" therefore, accepts no liability should this prove to be the case.

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G R Merchant drg. no. 3310-10**
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1.0 INTRODUCTION

- 1.1** An outline planning application is to be submitted by G R Merchant Ltd on behalf of Mr & Mrs J Powley for proposed residential development at land to the rear of 46 Market Street, Long Sutton, Lincs.
- 1.2** A Flood Risk Assessment is required to accompany the planning application and meet the requirements and general principles of the Planning Practice Guidance to the National Planning Policy Framework (NPPF) and for approval by the Environment Agency.

The site, as situated, is located within Flood Zone 3, of the Environment Agency's Flood Map for Planning. The latest Agency Flood Maps have been created as a tool to raise awareness of flood risk with the public and our partner organisations, such as Local Authorities, Emergency Services and Drainage Authorities. The Maps do not take into account any flood defences.

The site is also shown in a "Danger to Most" Residual Rating of the South East Lincs. Strategic Flood Risk Assessment Map (2117) and located in the South Holland IDB drainage district.

- 1.3** Geoff Beel Consultancy was appointed on 4th July 2019 to undertake a Revised Flood Risk Assessment.
- 1.4** A previous Flood Risk Assessment prepared by the author in January 2019 did not receive approval from the Environment Agency and the South East Lincolnshire Strategic Flood Risk Assessment identified the site as located in a "Danger to Most" Residual Hazard rating and failed the Sequential Test with planning approval refused on 25th March 2019.

This Revised Flood Risk Assessment addresses the above issues.

2.0 LOCATION

- 2.1** The development site is located at land to the rear of 46 Market Street, Long Sutton. The National Grid Reference of the central point of the development is TF 43072323.
- 2.2** The position and extent of the site is shown on Fig 1 – Location & Site Layout Plan (Existing) at the end of the document.
- 2.3** The site, located within the South Holland Internal Drainage Board district is shown within Flood Zone 3 as detailed on the Environment Agency Flood Map for Planning and in a "Danger to Most" Residual Rating of the Council's Strategic Flood Risk Assessment Map (2117).

3.0 THE SITE AND SEQUENTIAL TEST

- 3.1** The site is garden land to the rear of 46 Market Street, Long Sutton.
- 3.2** The area of development is approximately 0.12 hectare.

- 3.2 The proposed site layout consists the construction of a single two-storey dwelling. Ground level is generally at 3.50m aOD.
- 3.4 The Sequential Test and Exception Test will require to be applied by the Local Planning Authority but the development may be permitted as the site is protected against both the 1 in 200 year return period tidal event and the 1 in 100 year return period fluvial event.

The site is located in a "Danger to Most" Residual Hazard Rating of the South East Lincs. Strategic Flood Risk Assessment (2117) but the majority of existing development in Long Sutton is also situated in a similar category and with the proposed flood mitigation measures incorporated into the development proposals, the site located within defined settlement limits will be at much less risk than other surrounding properties and meet the requirements of both the Sequential Test and the Exception Test.

4.0 EXISTING FLOOD ALLEVIATION MEASURES

- 4.1 The site is within a defended floodplain, as defined in Appendix 1 of the Environment Agency's 'Policy for the Protection of Floodplains' and is considered to be passive until such time as a flood greater than that for which the defences were designed occurs. The likelihood of flooding due to overtopping or failure of a flood defence embankment is considered to be small.

The South Holland Internal Drainage Board is protected by a combination of the River Welland tidal defences downstream of Spalding, the River Welland fluvial embankments as well as the River Nene tidal defences downstream of Foul Anchor.

- 4.2 The site and the surrounding land drains by gravity to IDB main drains and hence via the Lutton Leam Sluice to discharge into the tidal River Nene downstream of Sutton Bridge.
- 4.3 The existing standard of drainage for the South Holland Internal Drainage Board is 1 in 50 years return period, compatible with the Department of the Environment, Food and Rural Affairs target level of service for rural drainage and flood defence works. Freeboard of 900mm is provided to the lowest land levels.
- 4.4 Current maintenance standards within the South Holland Internal Drainage Board and of the Environment Agency defences are generally very good.

During the operation and maintenance of its pumping stations, associated structures and channel systems, particularly those that could affect property, the Board seeks to maintain a general standard capable of providing flood protection to its district. A routine maintenance programme is in place to ensure that the Boards assets are commensurate with the standard of protection that is sought. However, bank slips, blocked culverts etc may occur from time to time and these matters are usually dealt with promptly.

5.0 POTENTIAL SOURCES OF FLOODING

5.1 Four potential sources of flooding have been identified as a result of this assessment:

- a) local blockages to IDB main drain system.
- b) storm return period of 1 in 50 years being exceeded
- c) failure of the Lutton Leam Outfall Sluice
- d) overtopping and breaching the tidal River Nene defences

5.2 The probability of flooding from source a) is low due to the maintenance standards already achieved and managed by the IDB.

The probability of flooding from b) is also low due to the South Holland IDB main drain design standard incorporating a minimum 900mm freeboard to the lowest land level which provides adequate storage in events greater than 1 in 50 years.

Previous historic rainfall events of 1968 and 1978, estimated to be greater than 1 in 100 year events, caused no flooding to any residential properties at the time and the Boards policy is to provide a standard of drainage which satisfies NPPF requirements of a 1 in 100 year return period for fluvial protection inclusive of the effects of climate change and developments to the arterial system enables a flexible approach to be adopted and meet the criteria for “sustainable urban drainage”.

5.3 Failure of the Lutton Leam Outfall Sluice may occur due to long term mechanical breakdown or power supply being disrupted. However, in these circumstances, if conditions were such as to put properties and land at risk of flooding, the Internal Drainage Board would take emergency action to maintain the drainage level of service by utilising temporary pumping equipment. The probability of such an occurrence is also considered to be low.

5.4 The flood embankments to the tidal River Nene provide a 1 in 200 year return period level of protection. Surface water drainage from the site will be to soakaways designed to BRE365 requirement and Building Regulations approval.

5.5 The South East Lincs. Strategic Flood Risk Assessment Residual Flood Depth Maps show the development site could be flooded to a depth of up to 1.00m. It is necessary to mitigate against such risks with finished floor level of the dwelling raised 500mm above ground level and flood resistant construction incorporated up to 500mm above finished floor level.

6.0 EXTENT OF KNOWN FLOODING

6.1 During the preparation of this assessment, no evidence was discovered of the site being flooded or of any adjoining properties.

7.0 PROBABILITIES AND TRENDS OF FLOODING

- 7.1 The probability of this development flooding from localised drainage systems is very low.**
- 7.2 The probability of the site flooding with water from any South Holland IDB main drain is less than 1% because of the standards of the existing flood defence systems, storage within existing drainage channels and the location of the site.**
- 7.3 The probability of the site flooding with fluvial waters from any main river system is less than 1% because of the standards of the existing flood defences and the location of the site.**
- 7.4 If under very extreme events, levels of floodwater from the South Holland IDB main drains or arterial systems rose to such an extent that the site was affected, the situation would not be sudden. It is very probable that sufficient time would be available to take precautionary actions to limit the extent and potential impact of flooding.**
- 7.5 The water levels in the drainage channels will tend to rise as a result of the impacts of climate change. However the existing systems and defences together with the proposed floor level 500mm above ground level with flood resistant construction up to 500mm above finished floor level will be appropriate for the design life of the development (i.e. 100 years).**
- 7.6 Safe refuge is available at first floor level.**
- 7.7 The developer will ensure that the eventual occupiers of the dwelling are sufficiently aware of the risk of flooding, and the standard of the existing defences. The Environment Agency provides a Flood Warnings Service which includes Flood Warnings Codes and uses direct warning methods where the risks and impacts of flooding are high. Indirect warnings are provided to all flood risk areas, even those at low risk of flooding. The main method is media broadcasts via local radio and also be television.**

In addition to direct and indirect flood warnings, the Environment Agency operates a 24 hour a day Floodline Service providing advice and information on flooding contact tel: 0345 988 1188. The occupiers of the dwelling should register with the Floodline Direct Warnings Service to receive any future flood warnings.

8.0 IMPACTS OF FLOODING

- 8.1** No significant impacts of flooding are anticipated.
- 8.2** Finished floor level of the development will be 500mm above existing ground level which together with the proposed flood resistant construction up to 500mm above finished floor level will offer additional protection against impacts arising from any extreme short duration localised events.
- 8.3** The general location of the site within the catchment is such that if flooding occurred from any of the South Holland IDB main drain systems, then probably 2 to 3 days warning time would be available.
- 8.4** No displacement of water from the site will affect any adjoining properties as soakaways drainage will be to BRE365 design requirements and Building Requirements approval.
- 8.5** Safe and dry access/egress is available to Market Street and hence in a westerly direction to Holbeach where land is in Flood Zone 1.

9.0 RESIDUAL RISK – EXTREME EVENTS

- 9.1** The residual risk from extreme events is very low on this site, because of its location, within the South Holland IDB area and its location 5.00kms from the River Nene tidal defences.
- 9.2** Although within Flood Zone 3 according to NPPF classification, the site actually has a very low risk of flooding due to the current standards of drainage and flood defence and land levels. The site is not located within a Functional Flood Plain of any 'main river' or 'main drain'. The Environment Agency Flood Map for Planning has been produced irrespective of existing flood defences and standards of protection.
- 9.3** South Holland District Council in conjunction with Boston Borough Council, the Environment Agency and the local IDB's within the Councils area have carried out a Strategic Flood Risk Assessment of the whole District by appointed Consulting Engineers.

The South East Lincs. Strategic Flood Risk Assessment (2017) has produced more definitive Flood Risk Maps than those published by the Environment Agency and at the same time has analysed flood return periods of all tidal and fluvial defences for year 2115 to account for the effects of climate change.

Breach scenarios of embankments failing and/or being overtopped have also been carried out to establish Flood Risk Zones. The site is shown as being liable to flooding of up to 1.00m depth of water as a result of a failure of the River Nene tidal defences.

- 9.4** As a result of the Strategic Flood Risk Assessment; the South Holland Main Drain and associated IDB main drains have been determined as providing protection against a 1 in 100 year return period event both in year 2115.

10.0 CONCLUSIONS AND RECOMMENDATIONS

10.1 As a result of the assessment, the following conclusions have been reached:-

- The proposed development is not in a Functional Floodplain. It is located in the Passive Floodplain protected by the River Nene tidal defences and the South Holland IDB to a 1 in 200 year return period, (0.5%).
- Although the site is in Flood Zone 3, the actual risk of site flooding from any Environment Agency river system is very low (less than 0.5%). The site has been identified as liable to flooding of up to 1.00m depth due to the failure of the River Nene tidal defences on the South East Lincs. SFRA Residual Flood Depth Mapping.
- Although the site is located within an Internal Drainage District with a minimum standard of drainage of 1 in 50 years, this accords with Defra guidelines for rural development. Freeboard to design water level of 900mm to lowest land level is available for events greater than 1 in 50 years providing further storage within the drainage channels.
- Finished floor level of the dwelling has been raised 500mm above existing ground level with flood resistant construction up to 500mm above finished floor level.
- On site rainwater from the development will be discharged via soakaway drainage to BRE365 design requirements and hence to IDB main drain system.

TREE PRESERVATION ORDER DOCUMENT NO. 26 1998

S O U T H



H O L L A N D
DISTRICT COUNCIL

(LONG SUTTON)

TREE PRESERVATION ORDER NO. 26 1998

I hereby certify that this is a true copy the above
Tree Preservation Order

.....
Assistant Chief Executive

TOWN AND COUNTRY PLANNING ACT 1990

SOUTH HOLLAND DISTRICT COUNCIL (LONG SUTTON)

TREE PRESERVATION ORDER NO. 26 1998

The South Holland District Council, in this order called the "authority" in pursuance of the powers conferred in that behalf by Section 198 and 201 of the Town and Country Planning Act 1990 and subject to the provisions of the Forestry Acts 1967 and 1979, hereby makes the following order:-

1. In this Order:

"the Act" means the Town and Country Planning Act 1990; "owner" means the owner in fee simple, either in possession or who has granted a lease or tenancy of which the unexpired portion is less than three years; lessee (including a sub-lessee) or tenant in possession, the unexpired portion of whose lease or tenancy is three years or more, and a mortgagee in possession; and the "Secretary of State" means the Secretary of State for the Environment.

2. Subject to the provisions of this Order and to the exemptions specified in the Second Schedule hereto, no person shall, except with the consent of the authority and in accordance with the conditions, if any, imposed on such consent, cut down, top, lop, uproot, wilfully damage or wilfully destroy or cause or permit the cutting down, topping, lopping, uprooting, wilful damage or wilful destruction or any tree specified in the First Schedule hereto or comprised in a group of trees or in a woodland therein specified, the position of which trees, groups of trees and woodlands is defined in the manner indicated in the said First Schedule on the map annexed hereto which map shall, for the purpose of such definition as aforesaid, prevail where any ambiguity arises between it and the specification in the said First Schedule.

3. An application for consent made to the authority under Article 2 of this Order shall be in writing stating the reasons for making the application, and shall by reference if necessary to a plan specify the trees to which the application relates and the operations for the carrying out of which consent is required.

4. (1) Where an application for consent is made to the authority under this Order, the authority may grant such consent either unconditionally, or subject to such conditions (including conditions requiring the replacement of any tree by one or more trees on the site or in the immediate vicinity thereof), as the authority may think fit, or may refuse consent:

Provided that where the application relates to any woodland specified in the First Schedule to this Order the authority shall grant consent so far as accords with the principles of good forestry, except where, in the opinion of the authority it is necessary in the interests of amenity to maintain the special character of the woodland or the woodland character of the area, and shall not impose conditions on such consent requiring replacement or replanting.

- (2) The authority shall keep a register of all applications for consent under this Order containing information as to the nature of the applications for consent under this Order containing information as to the nature of the application, the decision of the authority thereon, any compensation awarded in consequence of such decision and any directions as to replanting of woodlands; and every such register shall be available for inspection by the public at all reasonable hours.

NOTE: If it is desired to fell any of the trees included in this Order, whether included as trees, groups of trees or woodlands, and the trees are trees for the felling of which a licence is required under the Forestry Act 1967, application should be made NOT to the authority for consent under this Order but to the Conservator of Forests for a licence under that Act (Section 15(5)).

5. Where the authority refuse consent under this Order or grant such consent subject to conditions they may when refusing or granting consent certify in respect of any trees for which they are so refusing or granting consent that they are satisfied:

- (a) that the refusal or condition is in the interests of good forestry; or
- (b) in the case of trees, other than trees comprised in a group of trees or in a woodland, that the trees have an outstanding or special amenity value; or
- (c) in the case of trees which are comprised in a group of trees or in a woodland, that the group of trees or the woodland, as the case may be, has an outstanding or special amenity value,

but a certificate shall not be given in the case of trees falling within (c) above if the application in respect of them has been referred by the Forestry Commissioners under section 15(1)(b) or 15(2)(a) of the Forestry Act 1967(c).

6. (1) Where consent is granted under this Order to fell any part of a woodland other than consent for silvicultural thinning then unless:
- (a) such consent is granted for the purpose of enabling development to be carried out in accordance with a permission to develop land under Part III of the Act, or
 - (b) the authority with the approval of the Secretary of State dispense with replanting,

the authority shall give to the owner of the land on which that part of the woodland is situated a direction in writing specifying the manner in which and the time within which he shall replant such land and where such a direction is given and the part is felled the owner shall, subject to the provisions of this order and Section 204 of the Act, replant the said land in accordance with the direction.

(2) Any direction given under paragraph (1) of this Article may include requirements as to:

- (a) species;
- (b) number of trees per acre (hectare);
- (c) the erection and maintenance of fencing necessary for the protection of the replanting;
- (d) the preparation of ground, draining, removal of brushwood, lop and top; and
- (e) protective measures against fire.

7. On imposing any condition requiring the replacement of any tree under Article 4 of the Order, or on giving a direction under Article 6 of this Order with respect to the replanting of woodlands, the authority shall if such condition or direction relates to land in respect of which byelaws made by a water authority since 31st March 1974, by any other authority (whose functions are now exercised by a water authority) who at any time prior to 1st April 1974 exercised the functions in respect of which the byelaw was made, by a drainage board, or by the Greater London Council in the exercise of any of its functions in relation to the maintenance, improvement or construction of watercourses or of drainage works restrict or regulate the planting of trees, notify the applicant or owner of the land, as the case may be, of the existence of such byelaws and that any such condition or direction has effect subject to the requirements of the water authority, drainage board, or the Greater London Council under those byelaws and the condition or direction shall have effect accordingly.

8. The provisions set out in the Third Schedule to this Order being provisions of Part III of the Act adapted and modified for the purposes of this Order, shall apply in relation thereto.

9. Subject to the provisions of this Order, any person who has suffered loss or damage in consequence of any refusal (including revocation or modification) of consent under this Order or of any grant of any such consent subject to conditions, shall, if he makes a claim on the authority within the time and in the manner prescribed by this Order, be entitled to recover from the authority compensation in respect of such loss or damage:

Provided that no compensation shall be payable in respect of loss or damage suffered by reason of such refusal or grant of consent in the case of any trees the subject of a certificate in accordance with Article 5 of this Order.

10. In assessing the compensation payable under the last preceding Article account shall be taken of;

- (a) any compensation or contribution which has been paid whether to the claimant or any other person, in respect of the same trees under the terms of this or any other Tree Preservation Order under Section 198 of the Act or under the terms of any Interim Preservation Order made under Section 8 of the Town and Country Planning (Interim Development) Act 1943, or any compensation which has been paid or which could have been claimed under any provision relating to the preservation of trees or protection of woodlands contained in an operative scheme under the Town and Country Planning Act 1932, and

- (b) any injurious affection to any land of the owner which would result from the felling of the trees the subject of the claim.
- 11. (1) A claim for compensation under this Order shall be in writing and shall be made by serving it on the authority, such service to be effected by delivering the claim at the offices of the authority addressed to the Assistant Chief Executive thereof or by sending it by prepaid post so addressed.
- (2) The time within which any such claim shall be made as aforesaid shall be a period of twelve months from the date of the decision of the authority, or the Secretary of State as the case may be, or where an appeal has been made to the Secretary of State on the appeal.
- 12. Any question of disputed compensation shall be determined in accordance with the provisions of Section 205 of the Act.
- 13. (1) The provisions of Section 201 of the Act shall apply to this Order and the Order shall take effect on 2 December 1998.
- (2) This Order shall apply to any tree specified in the First Schedule hereto, which is to be planted as mentioned therein, as from the time when the tree is planted.

NOTE: Any person contravening the provisions of this Order by cutting down, uprooting or wilfully destroying a tree, or by wilfully damaging, topping or lopping a tree in such a manner as to be likely to destroy it is guilty of an offence and liable on summary conviction to a fine not exceeding the statutory maximum or twice the sum which appears to the court to be the value of the tree, whichever is the greater, or indictment to a fine. The penalty for any other contravention of this Order is an unlimited fine on conviction on indictment and, in case of a continuing offence when the contravention is continued after conviction, a person is liable on summary conviction to an additional fine not exceeding £5 for every day on which the contravention is so continued. (Section 210).

If a tree other than one to which an Order applies as part of a woodland is removed, uprooted or destroyed in contravention of an Order or is removed, uprooted or destroyed or dies at a time when its cutting down or uprooting is authorised only by section 198(6) of the Town and Country Planning Act 1990 relating to trees which are dying or dead or have become dangerous, it is the duty of the owner of the land, unless on his application the local planning authority dispense with the requirement, to plant another tree of appropriate size and species at the same place as soon as he reasonably can. Except in emergency, not less than 5 days previous notice of the removal, etc., should be given to the authority to enable the latter to decide whether or not to dispense with the requirement.

FIRST SCHEDULE

Trees Specified Individually
(encircled in black on the map)

No. on Map	Description	Situation
T1	Sycamore (<i>Acer pseudoplatanus</i>)	On the north western boundary of the entrance driveway to the property known as 46 Market Street, Long Sutton.

Trees Specified by Reference to an Area
(within a dotted black line on the map)

No. on Map	Description	Situation
	None	

Groups of Trees
(within a broken line on the map)

No. on Map	Description	Situation
G1	1 Ash (<i>Fraxinus excelsior</i>) 3 Sycamores	In the rear garden of the property known as 46 Market Street, Long Sutton running from the north eastern corner along the south eastern boundary for a distance of approximately 43 metres.

Woodlands
(within a continuous black line on the map)

No. on Map	Description	Situation
	None	

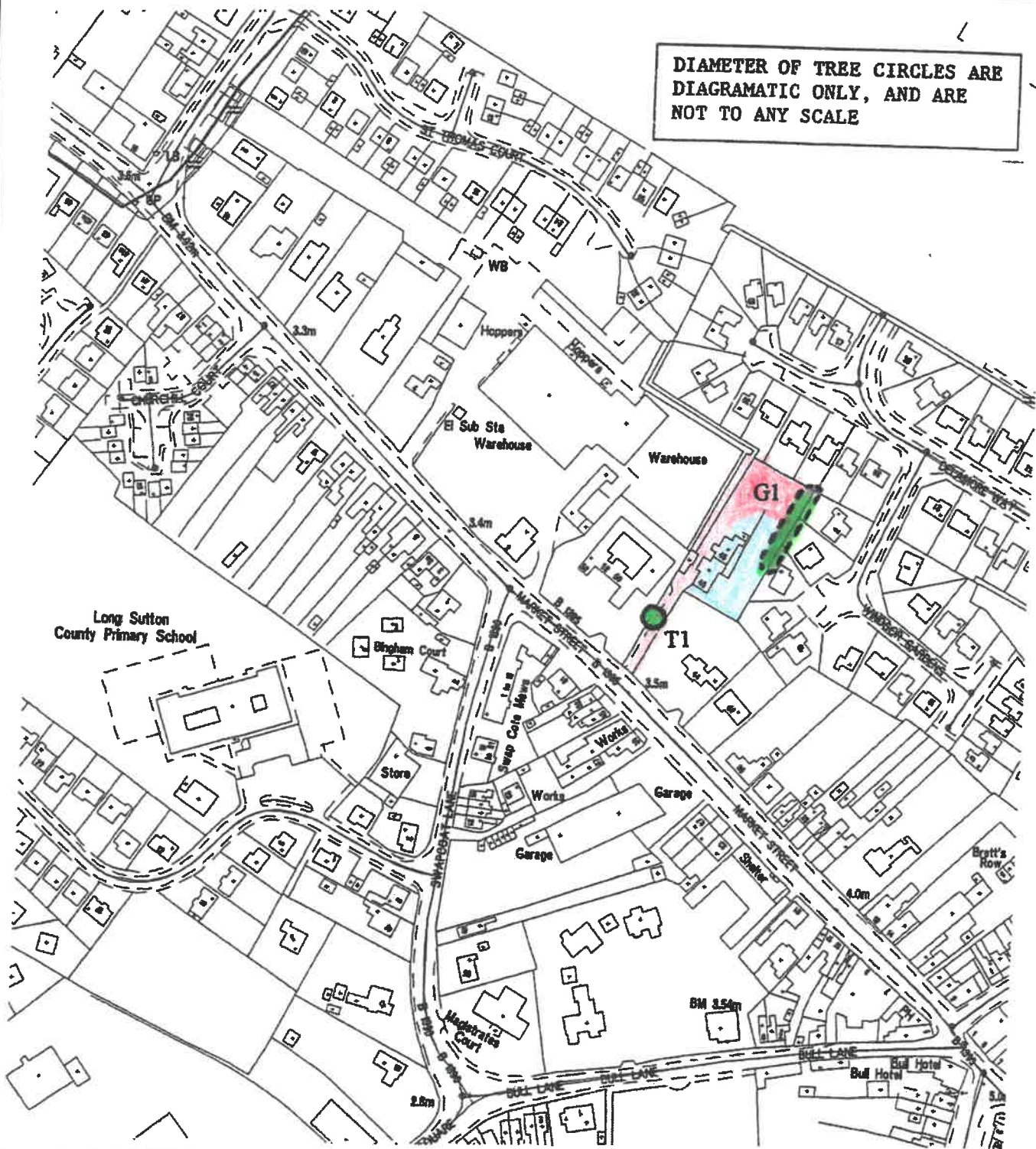
SECOND SCHEDULE

This Order shall not apply so as to require the consent of the authority to:

- (1) the cutting down of any tree on land which is subject to a forestry dedication covenant where
 - (a) any positive covenants on the part of the owner of the land contained in the same deed as the forestry dedication covenant and at the time of the cutting down binding on the then owner of the land are fulfilled;
 - (b) the cutting down is in accordance with a plan of operations approved by the Forestry Commission under such deed.
- (2) the cutting down of any tree which is in accordance with a plan of operations approved by the Forestry Commission under the approved woodlands scheme or other grant scheme under section 4 of the Forestry Act 1967(a) except which applies to a forestry dedication covenant;
- (3) the cutting down, uprooting, topping or lopping a tree
 - (a) in pursuance of the power conferred on the Post Office by virtue of Section 5 of the Telegraph (Construction) Act 1908 and Section 21 of the Post Office Act 1969, or by or at the request of the Post Office where the land on which the tree is situated in operational land as defined by the Post Office Operational Land Regulations and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking.
 - (b) by or at the request of
 - (i) a statutory undertaker where the land on which the tree is situated is operational land as defined by the Act and either works on such land cannot otherwise be carried out or the cutting down, topping or lopping is for the purpose of securing safety in the operation of the undertaking.
 - (ii) an electricity board within the meaning of the Electricity Act 1947 where such tree obstructs the construction by the board of any main transmission line or other electric line within the meaning respectively of the Electricity (Supply) Act 1919 and the Electric Lighting Act 1882 or interferes or would interfere with the maintenance or working of any such line.
 - (iii) a water authority established under the Water Act 1973, a drainage board constituted or treated as having been constituted under the Land Drainage Act 1976 or the Greater London Council, where the tree interferes or would interfere with the exercise of any of the functions of such water authority, drainage board or Council in relation to the maintenance, improvement or construction of water courses or of drainage works or,

SOUTH HOLLAND DISTRICT COUNCIL

DIAMETER OF TREE CIRCLES ARE
DIAGRAMATIC ONLY, AND ARE
NOT TO ANY SCALE



LONG SUTTON TREE PRESERVATION ORDER No.26 1998

PLAN: TF 543062 323208

SCALE: 1:2500

DATE: 20 November 1998

MRS SALLY WALTHAM
BA(Hons) FCIH
Director of Housing & Planning Services
Housing & planning Services Department
Council Offices, Priory Road.
Spalding, Lincs. PE11 2XE.



- (iv) the Secretary of State for Defence, the Secretary of State for Trade, the Civil Aviation Authority and the British Airports Authority where in the opinion of such Secretary of State or Authority the tree obstructs the approach of aircraft to, or their departure from any airport or hinders the safe and efficient use of aviation or defence technical installations.
- (c) where immediately required for the purpose of carrying out development authorised by the planning permission granted on an application made under Part III of the Act or deemed to have been so granted for any purposes of that Part.
- (d) which is a fruit tree cultivated for fruit production growing or standing on land comprised in an orchard or garden.

THIRD SCHEDULE

Provisions of the following parts of Part III of the Town and Country Planning Act 1990 as adapted and modified to apply to this Order.

- 75. (1) Without prejudice to the following provisions as to the revocation or modification of consents, any consent under the Order, including any direction as to replanting given by the authority on the granting of such consent, shall (except in so far as the consent otherwise provides), ensure for the benefit of the land and of all persons for the time being interested therein.
- 77. (1) The Secretary of State may give directions to the authority requiring applications for consent under the Order to be referred to him instead of being dealt with by the authority.
- 77. (2) A direction under this section may relate either to a particular application or to applications of a class specified in the direction.
- 77. (3) Any application in respect of which a direction under this section has effect shall be referred to the Secretary of State accordingly.
- 77. (4) Where an application in respect for consent under the Order is referred to the Secretary of State under this Section, the provisions of Articles 4 & 5 of the Order shall apply as they apply to an application which falls to be determined by the authority.
- 77. (5) Before determining an application referred to him under this section the Secretary of State shall, if either the applicant or the authority so desire, afford to each of them an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.
- 77. (7) The decision of the Secretary of State on any application referred to him under this section shall be final.

78. (1) Where an application is made to the authority for consent under the Order and that consent is refused by that authority or is granted by them subject to conditions, or where any certificate or direction is given by the authority the applicant, if he is aggrieved by their decision on the application, or by any such certificate, or the person directed if he is aggrieved by the direction, may by notice under this section appeal to the Secretary of State.
78. (2) Where an application for consent under the Order is made to the authority, then unless within two months from the date of receipt of the application, or within such extended period as may at any time be agreed upon in writing between the applicant and the authority, the authority either -
- (a) give notice to the applicant of their decision on the application; or
 - (b) give notice to him that the application has been referred to the Secretary of State in accordance with the directions given under section 77,
- the provisions of the last preceding section shall apply in relation to the application as if the consent to which it relates had been refused by the authority, and as if notification of their decision had been received by the applicant at the end of the said period of two months, or at the end of the said extended period, as the case may be.
78. (4) The time prescribed for the service of such a notice must not be less than
- (a) 28 days from the date of notification of the decision; or
 - (b) in the case of an appeal under subsection (2), 28 days from the end of the period prescribed as mentioned in subsection (2) or, as the case may be, the extended period mentioned in that subsection.
97. (1) If it appears to the authority that it is expedient to revoke or modify any consent under the Order granted on an application made under Article 3 of the Order, the authority may by Order revoke or modify the consent to such extent as they consider expedient.
98. (1)(6) Subject to the provision of Section 99 of the Act an Order under this section shall not take effect unless it is confirmed by the Secretary of State; and the Secretary of State may confirm any such Order submitted to him either without modification or subject to such modifications as he considers expedient.
98. (2)(3)(4)(5) Where an authority submit an Order to the Secretary of State for his confirmation under this section, the authority shall furnish the Secretary of State with a Statement of their reasons for making the Order and shall serve notice together with a copy of the aforesaid statement on the owner and on the occupier of the land affected, and on any other person who in their opinion will be affected by the Order, and if within the period of twenty-eight days from the service thereof any person on whom the notice is served so requires, the Secretary of State, before confirming the Order, shall afford to that person, and to the authority, an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose.

97. (3)(4) The power conferred by this section to revoke or modify a consent may be exercised at any time before the operations for which consent has been given have been completed.

Provided that the revocation or modification of consent shall not effect so much of those operations as has been previously carried out.

99. (1) The following provisions shall have effect where the local planning authority have made an Order (hereinafter called "such Order") under section 98 above revoking or modifying any consent granted on an application made under a tree preservation order but have not submitted such Order to the Secretary of State for confirmation by him and the owner and the occupier of the land and all persons who in the authority's opinion will be affected by such Order have notified the authority in writing that they do not object to such Order.
99. (2) The authority shall advertise the fact that such Order has been made and the advertisement shall specify (a) the period (not less than twenty eight days from the date on which the advertisement first appears) within which persons affected by such Order may give notice to the Secretary of State that they wish for an opportunity of appearing before, and being heard by, a person appointed by the Secretary of State for the purpose and (b) the period (not less than 14 days from the expiration of the period referred to in paragraph (a) above at the expiration of which, if no such notice is given to the Secretary of State, such Order may take effect by virtue of this section and without being confirmed by the Secretary of State.
99. (3) The authority shall also serve notices to the same effect on the persons mentioned in subsection (1) above.
99. (6) The authority shall send a copy of any advertisement published under subsection (2) above to the Secretary of State, not more than three days after publication.
99. (7) If within the period referred to in subsection (2)(a) above
no person claiming to be affected by such Order has given notice to the Secretary of State as aforesaid and the Secretary of State has not directed that such Order be submitted to him for confirmation, such Order shall, at the expiration of the period referred to in subsection (2)(b) of this section take effect by virtue of this section and without being confirmed by the Secretary of State as required by section 98(b) of this Act.
99. (8) This section does not apply to such Order revoking or modifying a consent granted or deemed to have been granted by the Secretary of State under Part III or Part VII or to an Order modifying any condition to which a consent is subject by virtue of section 91 or 92

The Common Seal of the South Holland
District Council was hereunto affixed
this 2 day of December 1998

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Tom Bray.

Chairman of the Council
~~METREER~~

[Signature]

Assistant Chief Executive

