

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H12-0119-24 **Applicant:** Mr W Eagling

Proposal: Details of site levels & floor levels, window opening mechanisms & the opacity of proposed glazing & boundary treatment (Conditions 3, 4 & 5 of H12-0883-23)

Location: Land Adjacent To Sunningdale 66 Gedney Road Long Sutton

Terminal Date: 5th April 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

- 01 Spatial Strategy
- 02 Development Management
- 03 Design of New Development
- 04 Approach to Flood Risk

National Guidance

National Planning Policy Framework 2023

Sections 2, 3, 4, 5, 11, 12 and 14 of the National Planning Policy Framework (December 2023) (NPPF)

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This condition compliance application is for the discharge of conditions 3, 4 and 5 of application reference H12-0883-23.

Those conditions were worded as follows:

3) Notwithstanding the details hereby approved, before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

Note: Site levels and finished floor levels have not been approved. Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: To ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents and its visual and architectural relationship with adjacent development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan, 2019.

4) Notwithstanding the details included within this application, prior to the installation of windows, details of their opening mechanisms and the opacity of the proposed glazing shall be submitted and approved in writing by the Local Planning Authority.

Note: The proposed window on the East-facing elevation shall be opaque at Pilkington Grade 5, and non-opening below a height of 1.7m above interior floor levels.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character and appearance of the development and the residential amenity of neighbouring properties.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

5) Notwithstanding the details included within this application, prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and materials, and details of the size and species of any hedging, shall be submitted to and approved in writing by the Local Planning Authority, and the details so approved shall be implemented in full before the development is first brought into use and retained thereafter.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Note 2: Given the proposal to raise FFLs by 1m, it shall be an expectation that the boundary treatment shall be of a height which protects residential amenity of neighbouring properties.

Reason: To ensure that the Local Planning Authority retains control over these details of the development in the interests of the character and appearance of the development and the residential amenity of neighbouring properties.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Site Description

As in host application

History

As in host application

Consultation Responses

None sought

Planning Considerations

Condition 3

The applicant has provided details of the final FFLs for the site. This condition was originally applied to ensure that the FFLs were tightly confirmed, and the local planning authority is therefore satisfied that the applicant has demonstrated their intention with regard to such levels, and in line with the

assessment given at the time of the determination of the original application, the local planning authority deems that these details are satisfactory and therefore, the condition may be discharged.

Condition 4

The applicant has provided details of the proposed windows, particularly that of the east facing window. This was requested as it was a concern of the LPA that the east facing window could potentially raise an overlooking risk to the nearby residential property. Therefore, the LPA is satisfied that this window shall be obscured to at least Pilkington Level 5, shall not be opening below an internal FFL of 1.7m and shall only be capable of bottom-opening to a maximum of 100mm from the frame. The local planning authority is satisfied that this protects the residential amenity of 64 Gedney Road, with regards to privacy.

Condition 5

The applicant has confirmed that the means of enclosure shall be a 1.8m close-boarded fence, with a 300mm concrete base, forming a 2.1m high fence. In conjunction with the restrictive viewing measures employed upon the east facing window of the property, the local planning authority is satisfied that this arrangement is suitable in terms of design and also protects the privacy of surrounding properties, most especially 64 Gedney Road. Therefore, the LPA considers the details provided to be acceptable, and therefore, this condition may be discharged.

Conclusion

For the above reasons, the Local Planning Authority concludes that conditions 3, 4, and 5 of H12-0883-23 should 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.