

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H13-1037-24 **Applicant:** R K Wilson Builders (MSE) Ltd

Proposal: Details of existing and proposed site levels, proposed floor levels, hard surfaced areas, garden/amenity areas, proposed boundary treatments and Biodiversity Net Gain Plan (Conditions 4, 5 and 8 of H13-0281-24)

Location: Rear Of Cassini Lodge 58 Seas End Road Moulton Seas End

Terminal Date: 3rd February 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
28	The Natural Environment
30	Pollution

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 12 - Achieving well-designed places
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a discharge of conditions application, providing details of existing and proposed site levels, proposed floor levels, hard surfaced areas, garden/amenity areas, proposed boundary treatments and Biodiversity Net Gain Plan (Conditions 4, 5 and 8 of H13-0281-24).

Site Description

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design. The area to the rear of Cassini Lodge has been included in the defined settlement limits of Moulton Seas End in the South East Lincolnshire Local Plan, 2019.

There are dwellings to the east of the proposal site on Seas End Road, and to the north of the site on Macfie Close.

The site is in Flood Zone 3 on the Environment Agency Flood Maps and is in a "Danger for Some" hazard area, with a predicted maximum flood depth of 0.25 metres on the 2115 South Holland Strategic Flood Risk Mapping.

Planning permission for 7 number dwellings was achieved under planning application H13-0281-24.

History

H13-0281-24 - Erection of 7 dwellings, Approved 21-08-24.

Consultation Responses

Highways & Suds

No Objections - Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development would not be expected to have an unacceptable impact upon highway safety or a severe residual cumulative impact upon the local highway network or increase surface water flood risk and therefore does not wish to object to this planning application.

Site Specific Comments:

Conditions 4, 5 and 8 of H13-0281-24 were not requested by Lincolnshire County Council. The only comment would be in respect of the refuse collection point - this should be placed further into the site so as not to obscure visibility for vehicles exiting the site.

Ecologist

The biodiversity net gain and management plan states that "The new habitats will be created as soon as the dwellings and associated infrastructure have been built" (page 3), however, I believe that a better defined and legally precise trigger is required to describe when habitat creation/enhancement activities will be started and completed and when the 30 year BNG clock starts. Therefore, I would defer to an enforcement officer's opinion on the wording for this trigger, but would also make this initial suggested amendment to the applicants: "The tree-planting and wildflower meadow establishment work will be completed within 1 year of first occupation of the site, and the 30 year BNG period will begin 1 year after this first occupation".

Another issue is that Section 2.2.1.3 on page 4 should be amended to explicitly state that these trees will be retained on-site over the 30 year period.

Once the issues above are addressed, I think that the biodiversity net gain and management plan and supporting metric are succinctly detailed and rigorous so that we can be reasonably confident in their accuracy. Yet, I note that the metric indicates that only a 1% gain is predicted, and therefore that there is no buffer provided to mediate the risks of habitat creation/enhancement failure. However, this application came in ahead of the mandatory BNG requirement data, so I don't believe that we can legally oblige the applicants to incorporate additional biodiversity provision within their gain plan.

Planning Considerations

Condition 4 - Proposed site levels

The condition requires:

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 applicant has provided the following plans:

- Proposed Site Sections - SW24-137-112
- Proposed Kerb & Surfacing Arrangement - Whole Site - SW24-137-110

The levels shown on the plan are considered to be acceptable. The site section shows that the plots 1-7 (inclusive) each plot is set at 3.775m AOD. Plots 1, 2 and 3 represent a circa 300mm increase over existing levels whilst plots 4, 5, 6, and 7 are closer to 500mm increase. The closest dwellings to the application site are plots 4 & 5 at the south Edge of Macfie Close. The original permission for that application site (H13-1062-19) confirms that ground levels are higher than they are on this application site. Furthermore, those dwellings adjacent to this proposal are side facing, with a limited number of openings. Therefore, the impacts from this development are considered acceptable and site levels are therefore appropriate. Condition 4 is therefore discharged.

Condition 5 - Boundary treatments

The Condition requires:

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.

The applicant has provided:

- Location Plan and Site Plan 4227-23 01E

The plan shows the height of the proposed fencing as well as the retention of hedgerows along the north and west boundaries. The proposed treatments are considered acceptable.

Condition 5 is therefore discharged.

Condition 8 - Biodiversity Net Gain Plan

The condition requires:

Prior to the commencement of the development hereby permitted beyond oversite, a Biodiversity Net Gain Plan to demonstrate a net gain in biodiversity on-site shall be submitted to, and approved in writing by, the Local Planning Authority. This shall be supported by a Biodiversity Management Plan setting out how the biodiversity enhancements will be managed and monitored for the lifetime of the development.

The applicant has provided:

- Biodiversity Net Gain Plan and Biodiversity Management Plan - December 2024
- Biodiversity metric

The Ecologist is content that the proposal meets with 1% net gain predicted and therefore given that there is no mandatory requirement for BNG this is acceptable (as only a net gain is required). The officer does have some concerns regarding a '30 year period' of maintenance and retention, however no such conditions were applied (as they are to applications who mandatorily are required to provide BNG). The content of the management plan, which provide information on how the biodiversity enhancements will be managed and monitored for the lifetime of the development (despite not explicitly stating 30 years) are acceptable. Furthermore, given that the condition requires the BNG to be managed for its lifetime (rather than a 30 year period), the start date in

terms of a trigger is not vital, and 1 year after first occupation is considered reasonable given the landscaping will require time to establish.

This approach is considered reasonable given mandatory BNG is not required and there are no reinforcing conditions relating to a 30 year period.

Therefore, on this basis condition 8 is also discharged.

Conclusion

Conditions 4, 5 and 8 of H13-0281-24 are hereby 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.