

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H14-0422-23 **Applicant:** Mr M Brady

Proposal: Details of contamination of land or pollution of controlled waters, existing/proposed site levels, proposed floor levels, hard surfaced areas, garden/amenity areas, foul water disposal and refuse & recycling. (Conditions 5, 7, 9 and 10 of H14-1023-21)

Location: Adj. 202 Spalding Road Pinchbeck Spalding

Terminal Date: 17th November 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
33	Delivering a More Sustainable Transport Network

National Guidance

National Planning Policy Framework 2023

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
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Application is made to discharge condition 5, 7, 9 and 10 of H14-1023-21. The submitted information show the details of contamination of land or pollution of controlled waters, existing/proposed site levels, foul water disposal and refuse & recycling.

Outline permission was granted for two dwellings, although this application only refers to one (the southern dwelling).

Site Description

The site is located to the east of Spalding Road at the southern end of Pinchbeck. It includes a private access road, which already serves a number of existing low occupancy units and two larger detached houses. The land where the dwellings are proposed to be sited is garden land associated with 202 Spalding Road. To the south-east is a development of 72 dwellings, which is still under construction. Beyond that is the Johnson Community Hospital. To the north are frontage properties on Spalding Road and an area of grassed land off Enterprise Way, which is allocated for employment uses.

Relevant History

H14-1023-21 - Outline. Residential Development - Erection of 2 Dwellings. Approved 23/12/21.

H14-0834-17 - Full. Construction of proposed single bedroom apartments. Approved 28-11-17.

Consultation Responses

Highway and Lead Local Flood Authority

"No objection; The matters covered by Conditions 5, 7, 9 and 10 do not directly concern highway safety, network capacity or surface water flood risk and so Lincolnshire County Council, as the highway authority and lead local flood authority, does not wish to object to the discharge of those Conditions."

Environmental Protection

"I have reviewed the EPS Ltd reports 'Phase I Geo-Environmental Desk Study 202a Spalding Road Pinchbeck Spalding PE11 3PB' EPS Project Reference: UK23.6396 Date Issued: 28th March 2023 Report Status: Issue 1 and 'Phase II Geo-Environmental Assessment 202a Spalding Road Pinchbeck Spalding PE11 3PB' EPS Reference Number: UK23.6396b Date Issued: 19th May 2023 Report Status: Issue 1. I am in general agreement with the findings and recommend discharge of conditions 5 & 6 of H14-1023-21 in full."

Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Condition 5

Condition 5 relates to the details of a preliminary assessment evaluating potential sources of contamination on site.

The relevant consultee from the Environmental Protection department have stated that the findings are acceptable and that the condition should be discharged.

As such, Condition 5 of H14-1023-21 can be discharged.

Condition 7

Condition 7 relates to the finished site levels, including the finished floor levels of the property and the levels of any hardstanding areas.

The finished floor levels are to be set at 3.7m OD, this represents an approximate raise of 0.44 metres from the average ground level of the site. Condition 8 of H14-1023-21 states that, in line with the flood risk assessment, finished floor levels are to be set a minimum of 3.7m OD.

Hard standing areas are to be set between 3.15m OD (to the north) to 3.33m OD (centrally). The submitted details are acceptable. Coupled with the proposed 2-metre-high boundary fence, it can be assured that overlooking will not be created as a result of the proposal.

Submitted details of the adjacent plot to the north show the ground level of the garden area are set at 3.12m. The southern plot has an average floor level of approximately 3.18m OD. While the proposed levels on the plot are slightly higher than the neighbouring levels, they are not so high as to create additional overlooking or to make the site appear incongruous within its surroundings.

The submitted details therefore conform to Condition 8 of H14-1023-21 while also being sufficient to discharge Condition 7. Condition 7 can be discharged.

Condition 9

Condition 9 relates to the disposal of foul water. It is proposed that the water be disposed via mains sewers.

This proposal is considered acceptable. Condition 9 can be discharged.

Condition 10

Condition 10 relates to the details of refuse storage and disposal. It is proposed that refuse sacks be placed at the kerbside on the day of collection for collection by the Council.

While the carry distance is greater than the 30 metres required under the Council's Guidance Note on Private Drives, the submitted scheme has previously been seen and agreed upon with the Authority.

Prior to disposal, refuse is to be stored within a private storage, within the residential curtilage. This scheme has also been previously agreed as part of H14-1023-21.

As such, the proposed scheme is considered acceptable. Condition 10 can be discharged.

Conclusion

The submitted details achieve the aims of the corresponding conditions of H14-1023-21. Conditions 5, 7, 9 and 10 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.