DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H15-0133-26**	**Applicant:**	**Salboy Construction Management Ltd.**
Proposal:	Erection of 59 dwellings & associated works - approved under H15-0014-22. Modification of Condition 18 to amend wording relating to Biodiversity Net Gain Plan to demonstrate a minimum of 10% on-site gain		
Location:	Land Adj. Crossroads Nurseries Main Road Quadring		
Terminal Date:	13th May 2026		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
28	The Natural Environment
29	The Historic Environment
30	Pollution
36	Vehicle and Cycle Parking

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 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
PARISH COUNCIL	0	0	0	0
WARD MEMBER	0	0	0	0
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application is made under Section 73 of the Town and Country Planning Act 1990 (as amended) seeking to vary Condition 18 attached to planning permission H15-0014-22.

Condition 18 currently requires the delivery of a minimum 10% biodiversity net gain to be achieved solely within the application site. The applicant has demonstrated that this requirement cannot be met within the red line boundary and therefore seeks to vary the condition to allow for off-site provision in accordance with the statutory biodiversity net gain framework.

Supporting information has been submitted, including a completed biodiversity metric, unit purchase documentation, and confirmation of allocation of off-site biodiversity units. This demonstrates that a biodiversity net gain of 10.11% can be achieved through off-site provision.

Site Description

The application site is located within Quadring, with the access road historically forming part of a horticultural nursery. Access is taken from Main Road to the south-west.

The site lies to the rear of properties fronting Main Road and Water Gate, with open agricultural land beyond the north-western and north-eastern boundaries. The development is well advanced, with construction significantly progressed across the site.

History

H15-0014-22 - Erection of 59 dwellings & associated works. Approved 01-09-22

H15-1207-18 - Outline - Residential development - up to 60 dwellings (approved September 2019)

Discharge applications

H15-0726-21 - Details of contamination, surface water drainage, foul drainage, construction management, prevention of mud on highway, boundary treatment, public open space, management plan (POS) and meter boxes, flues etc (Conditions 4, 9, 10, 11, 12, 14, 15, 18 & 19 of H15-1207-18). Approved 15th October 2021

H15-0894-22 - Details of contamination of land or pollution of controlled waters, archaeological investigation, management & maintenance schedule for areas of landscaping, open space, refuse/recycling collection & parking courts/private drives, construction management & site & floor levels (Conditions 3, 5, 10, 11 & 13 of H15-0014-22). Approved 9th September 2024

Consultation Responses

Ecology

The Council's Ecologist has reviewed the submitted biodiversity information and confirms that the applicant has secured sufficient off-site biodiversity units to achieve a 10.11% net gain. The units are provided through a recognised habitat provider and are registered on the national biodiversity gain site register. No objection is raised.

Evaluation

Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The adopted South East Lincolnshire Local Plan 2011-2036 forms the statutory development plan for the District. The provisions of the National Planning Policy Framework are also material considerations.

There are no adopted Neighbourhood Plans relevant to the site, and the Authority is able to demonstrate a deliverable housing land supply in excess of five years.

Evaluation - Section 73

This application is made pursuant to Section 73 of the Town and Country Planning Act 1990, which enables the variation of conditions attached to an existing planning permission.

In determining such applications, the Local Planning Authority is required to consider only the acceptability of the proposed variation to the condition(s) in question. The principle of development has already been established and is not subject to reconsideration.

If approved, a new standalone planning permission would be issued with the varied condition, alongside the re-imposition of relevant conditions from the original consent. The original permission would remain extant.

Planning Considerations

The key considerations are:

-Ecology
-Reattachment of conditions
-Legal Agreement

Ecology

Policy 28 of the South East Lincolnshire Local Plan 2011-2036 requires that development delivers measurable biodiversity net gains in accordance with national policy and the statutory framework introduced through the Environment Act 2021.

Condition 18 of permission H15-0014-22 currently requires that a minimum 10% biodiversity net gain be delivered solely within the application site. This approach is overly restrictive and does not reflect the statutory biodiversity net gain hierarchy, which allows for off-site provision where on-site delivery is not feasible.

In this instance, it has been demonstrated that the required biodiversity uplift cannot be achieved within the site. The applicant has therefore secured off-site biodiversity units which deliver a 10.11% net gain. The Council's Ecologist has confirmed that the submitted metric and supporting documentation are acceptable, and that the off-site units are appropriately secured and registered.

The proposed variation to Condition 18 is therefore necessary to align the permission with the statutory biodiversity net gain framework and ensure that a policy-compliant outcome is delivered.

To secure delivery, conditions are recommended requiring the submission and approval of a Biodiversity Gain Plan, ensuring that biodiversity enhancements are delivered and maintained over a minimum 30-year period.

Subject to these controls, the proposal accords with Policy 28 of the Local Plan and national policy.

Reattachment of conditions

As the grant of planning permission under Section 73 results in a new standalone permission, it is necessary to reimpose those conditions from the original consent that remain relevant and have not been fully discharged.

Conditions relating to contamination, archaeology, construction management, site levels, and flood risk mitigation remain necessary to ensure that the development continues to be carried out in a safe and acceptable manner and in accordance with the Development Plan.

Where details have previously been approved under discharge of condition applications, these have been incorporated into the reworded conditions. This ensures clarity and avoids duplication, whilst maintaining appropriate planning control.
In respect of foul drainage, although details were previously approved under an earlier discharge

application linked to the outline permission, those details do not directly relate to the full permission H15-0014-22. As such, it is necessary to reimpose a foul drainage condition to ensure that a suitable scheme is secured under the correct planning permission.
Given the advanced stage of construction, the trigger for this condition has been amended to require submission and implementation prior to the occupation of the final dwelling. This approach ensures that the condition remains reasonable and enforceable, whilst still securing an acceptable drainage solution and safeguarding against potential environmental and amenity impacts, including flood risk and pollution.

Conditions relating to boundary treatments, and landscaping have also been reimposed, as these matters have not been fully discharged or implemented across the site. Their retention is necessary to ensure the development achieves an appropriate standard of design and protects the amenity of the surrounding area.

In respect of biodiversity, the original condition has been replaced with updated conditions requiring a Biodiversity Gain Plan. This ensures alignment with current legislative requirements and provides a robust mechanism for securing biodiversity net gain.

Overall, the reattached conditions are considered necessary, relevant to the development, and reasonable in all other respects.

Legal Agreement

The development remains subject to the original Section 106 Agreement dated 25th August 2022. The Agreement includes provisions confirming that its obligations will continue to bind the development in the event that a new planning permission is granted under Section 73.

Accordingly, the obligations secured through the Agreement remain in force and continue to apply to the development.

Planning Balance

The principle of residential development on the site has already been established through the extant planning permission and is not subject to reconsideration as part of this application.

The proposed variation relates solely to the mechanism by which biodiversity net gain is delivered. It has been demonstrated that the original requirement for on-site provision is not achievable and that a compliant biodiversity net gain of 10.11% can be secured through off-site provision. The Council's Ecologist has confirmed that this approach is acceptable and consistent with the statutory biodiversity net gain framework.

The proposed variation therefore ensures that the development can deliver a policy-compliant outcome, aligning with Policy 28 of the South East Lincolnshire Local Plan and national policy objectives.

The reimposition of conditions ensures that all necessary safeguards remain in place, including those relating to drainage, environmental protection, design, and amenity. In particular, the reattachment of the foul drainage condition ensures that an appropriate drainage solution is secured under the correct planning permission.

There are no identified adverse impacts arising from the proposed variation that would outweigh the benefits of securing a compliant biodiversity net gain.

Accordingly, the proposal is considered to represent an acceptable form of development and is recommended for approval.

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.

Conclusion

The proposed development, as varied, is considered to accord with Policies 2, 3, 4, 28 and 30 of the South East Lincolnshire Local Plan 2011-2036, which collectively seek to ensure high quality design, appropriate flood risk mitigation, protection of residential amenity, and the delivery of measurable biodiversity net gain.

The proposal is also consistent with the provisions of the National Planning Policy Framework, particularly those relating to achieving sustainable development and conserving and enhancing the natural environment.

Accordingly, the development is considered to be in accordance with the Development Plan as a whole