

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H15-0557-23 **Applicant:** Mr P Green

Proposal: Details of wildlife survey, contamination of land or pollution of controlled waters, foul/surface water disposal, landscaping & tree planting, proposed boundary treatments, design of external doors & door frames, window frames and proposed roof light(s). (Conditions 3, 4, 5, 6, 7, 8, 9 and 10 of H15-0100-21)

Location: Judy Cross Barn Watergate Quadring

Terminal Date: 11th August 2023

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
28	The Natural Environment
29	The Historic Environment

National Guidance**National Planning Policy Framework 2023**

Sections 12 and 16 of the National Planning Policy Framework (2023)

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
WELLAND AND DEEPINGS INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	1	0

CASE OFFICER ASSESSMENT

Proposal

This condition compliance application is for the discharge of conditions 3, 4, 5, 6, 7, 8, 9 and 10 of H15-0100-21.

Those conditions read as follows:

Condition 3

"Prior to the commencement of the development hereby approved a wildlife survey incorporating a refuge shall be undertaken by a suitably qualified ecologist to identify the presence of any protected species within the existing structure, and the results of that survey shall be submitted to, and approved in writing by, the Local Planning Authority. In the event that protected species are identified, the survey report shall include a scheme of mitigation measures to protect any such species affected by the development. The scheme of mitigation shall thereafter be implemented in full accordance with the approved details prior to any works being carried out on the site.

Reason: To ensure the protection of wildlife in the interests of nature conservation in accordance with the National Planning Policy Framework. This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2019."

Condition 4

"The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved in that scheme have been implemented. The scheme shall include all of the following measures:

- i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk-top study and a non-technical summary shall be submitted to the LPA without delay upon completion.
- ii) if identified as being required following the completion of the desk-top study, a site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
- iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.
- iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation has been fully met.

Note

The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

The applicant's attention is also drawn to the document entitled "Developing Land Within

Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory 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 Policy 30 of the South East Lincolnshire Local Plan, 2019."

Condition 5

Before the commencement of the development hereby granted beyond oversight, full details of the proposed means of foul and surface water disposal to separate systems shall be submitted to and approved in writing by the Local Planning Authority and the details so approved shall be implemented in full before there are any flows into the receiving systems.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2019.

Condition 6

"Before the commencement of the development hereby permitted beyond oversight, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance. Such scheme as is approved by the Local Planning Authority shall be carried out and completed in its entirety during the first planting season following practical completion of the development. All trees, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for the period of five years beginning with the date of completion of the scheme and during that period all losses shall be made good as and when necessary.

Note: The applicant is recommended to employ a qualified and experienced landscape designer to produce a landscaping scheme for the development.

Reason: To ensure that the development is adequately landscaped, in the interests of its visual amenity and that of the area in which it is set.

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

Condition 7

"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.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.

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

Condition 8

"Details of the design of all external doors and door frames to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Such details shall indicate, at a scale of not less than 1:10, the longitudinal and cross-sectional detailing (including reveals), threshold and lintol detailing, and means of opening. The

doors and door frames shall be installed in accordance with the approved details and thereafter so maintained.

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 visual amenity of the area in which it is set.

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

Condition 9

"Details of the window frames to be utilised in the development hereby permitted shall be submitted to and approved in writing by the Local Planning Authority prior to their installation. Such details shall indicate, at a scale of not less than 1:10, the longitudinal and cross-sectional detailing (including reveals), cill and lintol detailing, and means of opening. The window frames shall be installed in accordance with the approved details and thereafter so maintained.

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 visual amenity of the area in which it is set.

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

Condition 10

"Prior to their installation full details of the proposed roof light(s) shall be submitted to and approved in writing by the Local Planning Authority. The roof light(s) shall be installed in accordance with the approved details and thereafter so maintained.

Note: The applicant is advised that a flush fitting rooflight of traditional design, having a slim metal frame and central vertical glazing bar, would be appropriate.

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 visual amenity of the area in which it is set.

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

Lincolnshire Bat Group

No response received.

Lincolnshire Wildlife Trust

No response received.

SHDC Environmental Protection

I have reviewed the Oakshire Environmental Report 'Phase 1 Preliminary Risk Assessment Judy Cross Barn, Water Gate, Quadring, Spalding PE11 4PY' dated 13 October 2021 and am in general agreement with the findings.

I have reviewed the Oakshire Environmental Report 'Phase 2 Intrusive Site Investigation Judy Cross Barn, Water Gate, Quadring, Spalding PE11 4PY' dated 31 August 2021. The site investigation is

very limited in scope, four near surface samples were taken by the client, detailed soil descriptions were not provided and the test records from the laboratory have not been provided. Made ground was not reported but two samples contained brick fragments, and elevated levels of lead, arsenic and PAH were reported in 2 out of 4 samples tested. One contained brick fragments, one didn't.

I have reviewed the Oakshire Environmental Report 'Phase 3 Remediation Options Appraisal Judy Cross Barn, Water Gate, Quadring, Spalding PE11 4PY' dated 10 February 2022. Two options were discussed - breaking the pathway by either clean cover or a physical barrier, with 600mm clean cover suggested as the consultants preferred solution. In theory, either option is acceptable, however I feel that there are too many uncertainties at this point to agree the remediation strategy proposed in section 5.2.

In particular, there is no rationale to explain how the area to be covered by the remediation has been determined. There is no physical identifier to delineate either the area or depth affected. The report assumes that soil below 300mm and outside of the proposed remedial area does not contain elevated levels of determinants, but there is no evidence to support this decision.

I consider that either a wider remediation, or further sampling to delineate the area is required.

Therefore, at this stage, I can recommend discharge of parts i & ii of condition 4 of H15- 0100-21 only with parts iii & iv remaining outstanding.

LCC Lead Local Highways and Flood Authority

No objections

Welland and Deepings Internal Drainage Board

No objections. Reminds applicant of their duty to apply for consent with the Drainage Board to drain into their riparian drain.

Quadring Parish Council

No observations.

Planning Considerations

Condition 3

Both the Lincolnshire Wildlife Trust and the Lincolnshire Bat group were consulted on this application but did not respond. The case officer has examined the professionally conducted protected species survey and finds that the report contains reasonable mitigation methods and therefore, finds in favour of the report conducted by Inspired Ecology and therefore recommends that this condition may be discharged on the understanding that, in accordance with the wording put forth under the original condition, the development is carried out in accordance with the recommendations made by the submitted report.

Condition 4

The Environmental Protection Team responded to this application confirming that they were satisfied with the discharge of parts i & ii of Condition 4, requesting that either a wider remediation or further sampling be taken out to be able to discharge parts iii & iv. Upon consideration of this request, the Local Planning Authority considers this to be unreasonable, given the low risk of land contamination at this site, as identified in the Oakshire Report and the nature of the former use as a simple agricultural barn. The LPA therefore notes and concurs with the findings of the Oakshire reports and recommends that this condition may be discharged.

Condition 5

Both the Lincolnshire County Council Lead Local Flood Authority and the Local Drainage Board have been consulted on the proposed means of drainage and raised no objections. There are no nearby residential properties to be materially impacted by the drainage at the site. Because of a lack of objections from the relevant authorities, the LPA recommends that this condition be discharged.

Conditions 6 & 7

The applicant has submitted details of the proposed planting and boundary treatments. The only additional planting to be placed on site is a laurel hedge along the southern, eastern and western boundaries. This will be accompanied with a 1.2m timber post & rail fence spanning those same boundaries. Both details are considered acceptable and therefore, these conditions may be discharged.

Conditions 8, 9 & 10

The applicant has provided sectional details for all the proposed windows, doors and rooflights. All submitted details are considered acceptable and therefore, these may be discharged.

Conclusion

For the reasons listed above, this application is deemed to be in accordance with Policies 1, 2, 3, 4, 28, & 29 of the SELLP and therefore, this application 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.