

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0574-23 **Applicant:** Wests Nurseries Ltd

Proposal: Proposed storage lagoon to provide attenuation for glasshouses constructed in 2011

Location: Wests Nurseries Ltd 20 Mallard Road Low Fulney

Terminal Date: 17th 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

National Guidance**National Planning Policy Framework 2021**

6 - Building a strong, competitive economy
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change
15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	2	1	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a full planning application at Wests Nurseries Ltd, 20 Mallard Road, Low Fulney for a proposed storage lagoon to provide attenuation for adjacent glasshouses. The proposal seeks to provide a triangular shaped lagoon in the south-west corner of the site, to the north of a dwelling on Weston Hills Road called Dizzy Heights. The lagoon will measure 49 metres down the western side, 54 metres down the eastern side and measure 50.25 metres at the southern base. 200mm diameter pipes will connect existing lagoons to the north and east to the proposed lagoon. A 100mm diameter pipe will connect to the existing dyke to the west of the lagoon.

The supporting information states: "The required dimensions of this lagoon have been designed in a separate document. The lagoon will be formed by excavating the triangular area south west of the existing glasshouse 1.0 metre deep with side slopes with a slope of 1.5 to 1.0 (approximately 34 degrees to horizontal). The angle of the side slopes will be similar to the batter of the dyke on the western side of the lagoon."

"The lagoon will not be lined. The side slopes and base will be grassed which will be managed along with all of the grassed areas on the site."

"The lagoon has been designed only to receive excess water from the existing lined reservoir on the north western side in heavy rainfall situations. At the present time it may only be filled with water for a period of a few days every three to five years. and therefore for 99% of the time the lagoon will be empty."

When asked about safety measures, the agent has responded to state "As the surface water lagoon is not a lined storage lagoon where water is stored (a deep water lined storage lagoon already exists on the site and does have a boundary fence around) the applicant does not feel the need for any boundary fencing but would provide escape steps."

SITE DESCRIPTION

The site is outside of defined settlement limits and the surrounding area is predominately rural, characterised by linear development of varying ages and designs. The glasshouse to the north-west of the lagoon was constructed in 2015, with the glasshouse to the north-east constructed prior to 2011. Arable fields are located to the south-west of the site, with a property known as Dizzy Heights off Weston Hills Road to the south. Angie's Plant Centre is located beyond an earth bund to the south-east of the site. The site is in Environment Agency Flood Zone 3, and is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping.

RELEVANT HISTORY

H16-1344-03 - For glasshouse to north-east of proposal site

Full - Extension of existing horticultural glasshouse unit and new freestanding glasshouse unit - Approved - 02 February 2004.

H16-0953-14 - For glasshouse to north-west of proposal site

Full - Proposed replacement and new glasshouses including reservoir and soakaway pond - Approved - 06 February 2015.

CONSULTATION RESPONSES

Lincolnshire County Council - Highways & SUDS Officer

No objection - *"The purpose of the proposed water storage lagoon is to retain surface water run-off*

from the roofs of the glasshouses on the Wests Nurseries site, both so that the water can be used to irrigate plants being grown in the glasshouses and to reduce the volume and the rate of discharge of surface water going into the watercourses within and surrounding the site. As such, the proposed development would not be expected to increase surface water flood risk within the site or to neighbouring land and property. The Lead Local Flood Authority does not therefore wish to object to the grant of Consent for this Application."

South Holland Internal Drainage Board

They requested that consent is gained by the applicant to discharge to a watercourse within the internal drainage district of the Board prior to determination of the application. (An application was made to the Board on the 24th of July 2023).

The Right Honourable Sir John Hayes MP

A lined storm water retention reservoir would be a better option for the site.

Members of the public

This application has been advertised in accordance with the Council's Statement of Community Involvement and the Development Procedure Order. In this instance, four letters of representation have been received. These can be summarised as:

One member of the public - No objections

Two members of the public summarised below - "A lagoon is not a storm retention reservoir because it will retain ground water...This new lagoon is going to increase the water table of the surrounding area and serve no purpose in storm conditions. a storm retention reservoir should be lined ie; no contact with the water table and fully drain after the storm not used for water storage. Also the fact that water comes off the upstream end of these glasshouses should be investigated. This should not happen; the downstream end pipe work should be able to clear water away before this takes place."

There has been severe flooding to neighbouring properties over the last decade.

"...the existing reservoir system itself causes surface water flooding because the onwards drainage solution via the Dyke is not adequate to cope with the volume from the glasshouses. The volume of water discharged by the applicant means that the water level is regularly higher than land drains for surrounding properties, causing them to back up and flood neighbouring land. An additional reservoir will make things worse."

"We note from the IDB consultee comments that there is no consent for the applicant's discharge via the Dyke to connect into the IDB system on Weston Hills Road; We are not aware of any other legal rights or permits for the drainage via the Dyke either. The IDB system has recently been culverted under Weston Hills Road but the culvert itself is of lesser capacity than the Dyke and could lead to flooding of residential properties if it backs up."

"In addition, the application does not contain details of how the applicant proposes to control the water that is to be released into the Dyke, e.g. whether this is going to be an emergency overflow system in extreme weather events only or whether the applicant has consent to release controlled amounts of water at certain times to manage levels within the reservoir system."

KEY PLANNING CONSIDERATIONS

The main issues and considerations in this case are (but are not limited to):

Principle

Amenity
Character
Local flooding
IDB discharge consent.
A lined storm water reservoir would be a better option for the site.

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.

In this case, the adopted South East Lincolnshire Local Plan 2011-2036, adopted March 2019, forms the development plan for the District, and is the basis for decision making in South Holland. The relevant development plan policies are detailed above.

The policies and provisions set out in the National Planning Policy Framework (updated July 2021) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Furthermore, where a Neighbourhood Plan has been adopted, this alongside the adopted Local Plan, forms part of the Development Plan for the District, and must be considered when assessing development proposals. In this instance, no relevant neighbourhood plans have been adopted.

Principle

Policy 1 of the SELLP directs developments to the most sustainable locations. The entire settlement of Low Fulney is outside of defined settlement limits. Therefore for assessment purposes it is classed as being in the countryside. The SELLP sets out the settlement hierarchy in respect of delivering sustainable development that meets the social and economic needs of the area, whilst protecting and enhancing the environment; to provide enough choice of land for housing to satisfy local housing need, whilst making more sustainable use of land and to minimise the loss of high-quality agricultural land by developing in sustainable locations and at appropriate densities.

Policy 1 of the SELLP sets out a spatial strategy for delivering sustainable development across South East Lincolnshire to 2036. Policy 1 (Spatial Strategy) expresses this sustainable framework of settlements, ranking the settlements deemed to be most sustainable in descending order. The most sustainable locations for development are situated within the Sub-Regional Centres, followed by Main Service Centres. Lower down the sustainable development hierarchy are areas of limited development opportunity including Minor Service Centres, with areas of development constraint comprising of Other Service Centres and Settlements. The countryside is at the bottom of the settlement hierarchy and represents the least sustainable location in sustainability terms.

Policy 1 (Spatial Strategy) of the SELLP indicates that 'the rest' of the Local Plan area outside the defined settlement boundaries of the Sub-Regional Centres, Main Service Centres, Minor Service Centre and Other Service Centres and Settlements is designated as Countryside. Within the 'Countryside', development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

Given the location of the site, this proposal is assessed against SELLP Policy 1 titled - Spatial Strategy, with the relevant section in this policy being titled Countryside. As outlined above, in the Countryside, development will be permitted that is necessary to such a location and/or where it can be demonstrated that it meets the sustainable development needs of the area in terms of economic, community or environmental benefits.

When assessed against the relevant criteria the following can be observed. Economically there will be a small benefit by providing temporary jobs whilst the lagoon is under construction. The potential to store excess storm water will help reduce watering costs and prevent loss of crops in the greenhouses from flood damage. The community benefits should see a reduction in instances or the severity of flooding due to the ability to store water on site and thereby provide a more sustainable flowrate to nearby watercourses. Environmentally the proposal should help prevent flood damage to surrounding land and improve visual amenity by giving greater management to the

appearance of the surrounding area.

As such, the proposal is considered to be in accordance with the requirements of Policy 1 of the South East Lincolnshire Local Plan when viewed in principle. This is subject to the assessment against site specific criteria; including (but are not limited to) the impact of the proposal on the character or appearance of the area, impact on the residential amenities of neighbouring occupiers, and flood risk which are discussed in turn as follows.

Flood Risk / Site Levels

The South East Lincolnshire Strategic Flood Risk Assessment (SFRA) provides an overview of how flood risk has been considered in shaping the proposals of the Local Plan; including the spatial strategy and the assessment of housing and employment sites. Policy 4 of the South East Lincolnshire Local Plan is clear in that "Development proposed within an area at risk of flooding (Flood Zones 2 and 3 of the Environment Agency's flood map or at risk during a breach or overtopping scenario as shown on the flood hazard and depths maps in the Strategic Flood Risk Assessment) will be permitted" in instances where specific criteria is met.

The proposal site is in Environment Agency Flood Zone 3, and is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping.

It is considered that the proposed storage lagoon will help to reduce flooding impact by allowing greater management of waterflows at times of heavy rain. This stance is supported by the County Highways and SUDS Officer who is considered to have expertise in such matters.

With regard to the South Holland IDB request for a Byelaw 3 surface water drainage consent application, this was made on the 24th of July 2023. It is not considered necessary to withhold a Local Planning Authority determination until an IDB decision has been made. This is because this matter can be addressed by means of a pre-commencement decision. This condition would not allow works to commence on site until permission has granted to allow additional surface water discharge.

The matter of flood risk and surface water discharge is considered to have been satisfactorily addressed by the applicant.

Character / Appearance

Section 12 of the National Planning Policy Framework (2021) specifically relates to 'Achieving well-designed places' and details that "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve" and as such, it is generally accepted that good design plays a key role towards sustainable development.

Paragraph 130 of the National Planning Policy Framework (NPPF), 2021 establishes that planning policies and decisions should ensure that developments will function well and add to the overall quality of the area. That they are visually attractive, as a result of good architecture, and are sympathetic to local character. Likewise, Policy 2 of the SELLP, states that design which is inappropriate to the local area, or which fails to maximise opportunities for improving the character and quality of an area, will not be acceptable.

There are a number of earth bunds and storage lagoons / reservoir in the vicinity of the proposal site. This proposal is not considered to set a visual precedent and is considered to aide the character of the area by reducing the likelihood of surface water flooding in and around the site.

There is not considered to be a material impact on character and appearance from this proposal which accords with the relevant criteria of Policies 2 and 3 of the SELLP.

Amenity

Paragraph 130 of the National Planning Policy Framework (2021) states that development should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.

Policies 2 and 3 of South East Lincolnshire Local Plan (2019) sets out that residential amenity and the relationship to existing development and land uses is a main consideration when making planning decisions.

There is not considered to be an amenity impact from this proposal which will present like the other lagoons and earth bunds nearby. The amenity of the applicant and neighbours will be improved by the likelihood of flooding impact. Due to the separation distance of 130 metres to the nearest property, there is not considered to be an overlooking, overshadowing or overdevelopment impact from the proposal, which blends in well with the existing site use.

As detailed above, the scale and design of the proposal is considered to be such that there would be no significant or unacceptable impact on the residential amenities of the occupiers of adjacent properties or land users, when also taking account of the conditions recommended. As such, the proposal is considered to accord with the provisions of the Section 12 of the National Planning Policy Framework, and Policies 2 and 3 of the Local Plan.

PLANNING BALANCE

As detailed above, 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 proposal is appropriately sited and designed for the proposed use. There is not considered to be a character or amenity impact from the proposed lagoon.

CONCLUSION

This application accords with Policies 1, 2, 3, 4 and 28 of the South East Lincolnshire Local Plan, 2019, as well as Sections 6, 12, 14 and 15 of the National Planning Policy Framework, 2021.

RECOMMENDATION

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.

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.