DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0576-21**	**Applicant:**	**The Glenholme Group**
Proposal:	Proposed 61 bedroom care home approved under H16-0008-19. Modification of Conditions 2 and 19 to allow amendments to previously approved plans.		
Location:	Halmer Court 108 Halmer Gate Spalding		
Terminal Date:	10th September 2021		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
02	Development Management
03	Design of New Development
04	Approach to Flood Risk

National Guidance

National Planning Policy Framework 2021

Section 14 - Meeting the challenge of climate change, flooding and coastal change

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
SHDC INTERNAL	1	0	0	0
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	1	0	0	1

CASE OFFICER ASSESSMENT

Proposal

Full planning permission was granted under application ref. H16-0008-19 for the construction of a 61 bedroom care home at 108 Halmer Gate, Spalding.

Details of foul water disposal were discharged under application ref. H16-0524-19. The proposal at that stage was for surface water to be discharged to the existing drain on the eastern boundary of the site. However, due to the drain being impeded further downstream (and therefore there being no connection to the wider system), the IDB have since refused consent for the water to be discharged to this drain. The applicant is therefore seeking permission to discharge into the Anglian Water system instead.

The landscaping proposals have also been revised with a crazy golf course and petanque pitch now being included at the southern end of the site. The remainder of the landscaping scheme remains largely as previously approved.

Site Description

As original application, except construction has been certified complete.

History

H16-0524-19 - Details of Archaeology, foul water disposal, site levels, construction management plan and precautions to prevent mud deposits on road (Conditions 3, 7, 8, 9 and 10 of H16-0008-19) (approved August 2019)

H16-0008-19 - Proposed 61 bedroom care home (approved April 2019).

Consultation Responses

Anglian Water - Whilst we note the response from the LLFA dated 28th June and the Section 106 approval letter dated 19th May 2021, we will need to see the evidence that all other surface water disposal options have been proven unviable in accordance with Building Regulations Part H3. The Rev Layout Drawing states that blockages downstream in the watercourse make a connection into the watercourse unfeasible. We would ask you to investigate the reason for these blockages. If it is due to lack of maintenance by riparian owners we would request that action is taken to rectify this problem and therefore make it feasible to discharge surface water into the watercourse. We will be happy to discuss this in more detail with the LLFA and the applicant if they wish.

South Holland Drainage Board - I note that the applicant intends to discharge surface water to a sewer. After investigations on the 18/12/18 to determine the infiltration potential for the site indicated that soakaways would not be a viable method of surface water disposal the applicant applied to the Board for consent to discharge surface water to a riparian watercourse. This application (21_04258_C) was refused by the Board on the 13/05/2021 because the watercourse was found to have no connection to the wider network. Therefore, discharging the surface water to a sewer is in line with the drainage hierarchy as it is the only viable option of surface water disposal at this site.

LCC Highways/SUDS - Does not wish to restrict the grant of permission. Under the advised circumstances, it would appear that discharging the surface water run-off from the consented development into the existing foul water sewer is the only viable surface water drainage strategy. Provided Anglian Water (not Yorkshire Water) are agreeable to both the principle of this arrangement and the rate of discharge, then the Lead Local Flood Authority does not wish to raise objection to this application.

Public (2 objections, summarised) -
- Queries why options and problems for surface water disposal were not explored prior to planning permission being granted
- Building is far larger than the previous one on site and surrounding gardens that would have acted as soakaway areas have been built on

- Issues with property curtilage being flooded with raw sewerage
The IDB letter is slightly confusing so unsure if they are refusing or not. Part of the letter states that 'This application (21_04258_C) was refused by the Board on the 13/05/2021 because the watercourse was found to have no connection to the wider network'. A lot of complaints are received from this area when we receive excess rain, some properties are flooding on Low road, if this is to add to the problem I would not be able to support this application.

Planning Considerations

The acceptability of the development was established by virtue of permission ref. H16-0008-19 and construction of the building is now complete.

The surface water drainage hierarchy set out in Building Regulations Approved Document H has been followed - infiltration testing was carried out but it was concluded that this was not a viable option and now, unfortunately, the next most preferable means of disposal in the hierarchy (discharge to watercourse) has been found not to be viable due to issues downstream. The IDB consenting process is separate to the planning process and it is not guaranteed that consent will be granted by the former.

Anglian Water have responded to the Council that action should be taken to rectify the blockages if it is due to lack of maintenance by riparian owners. However, it is understood that this is not the issue in this case, rather it is that a home owner has filled in the drain and claimed the land as their own to form part of their garden.

Furthermore, separate correspondence from Anglian Water to an engineering consultant in relation to the site states that they have no objection to an indirect surface water connection to the foul water sewer.

Clearly given that the building is ready to be occupied, a swift solution needs to be found and in light of the aforementioned letter of 'no objection' from Anglian Water, the proposed alternative means of surface water disposal is considered acceptable.

In terms of the landscaping changes, the most notable are to the southern end of the site with the introduction of a crazy golf course and petanque pitch. This has no impact on the visual appearance of the development from public vantage points and will offer residents activities important for their well-being.

Planning Balance

Due to the drain into which it was proposed that surface water be discharged being impeded further downstream (and therefore there being no connection to the wider system), the only reasonable viable remaining alternative given the completed state of the building is to connect the development to the Anglian Water system.

The proposed changes to the landscaping are relatively minimal and are acceptable in planning terms.

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 recommendation is to approve the application.