DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0635-20**	**Applicant:**	**Burmor Projects**
Proposal:	Details of contamination, boundary treatments and refuse arrangements (Condition 3 - Contamination; Condition 7 - Boundary Treatments; Condition 9 - Refuse; of H16-0283-17).		
Location:	Land Off Willow Walk 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
30	Pollution

National Guidance

National Planning Policy Framework 2021

NPPF 2021.

Representations:

	Object	Support	No Obj.	Comments
WARD MEMBER	0	0	0	0
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1
RESIDENTS	4	1	0	1

CASE OFFICER ASSESSMENT

PROPOSAL

Details of contamination, boundary treatments and refuse collection management arrangements (Condition 3 - Contamination; Condition 7 - Boundary Treatments; Condition 9 - Details of Refuse Collection; of H16-0283-17).

Although this application is described as relating to H16-0283-17, the S73 application H16-1091-20 will be utilised in due course as the "host" application for this development and this shall be taken in to account in the issuing of a Decision Notice for H16-1091-20 and vice versa. If this S73 application is not approved then then the original planning permission H16-0283-17 will be the "host" permission.

This application originally proposed the discharge of Condition 17, regarding levels, but this has been withdrawn from the application as a result of the S73 application received (H16-1091-20 refers).

In addition, revisions have been made to the level of soil testing submitted as well as the boundary treatments and an indemnity for refuse collection is now in place, which is explained below.

SITE DESCRIPTION

As host application, however this development is under construction and is reaching completion.

RELEVANT PLANNING HISTORY

H16-1091-20. S73A CONTINUATION. Residential Development of 20 Dwellings - approved under H16-0283-17. Modification of Conditions 2, 12 & 17 relating to highways and levels. UNDER CONSIDERATION.

H16-0180-20. Details of full closure report and landscaping (Conditions 3 (iv) and 6 of H16-0283-17). APPROVED 25-03-20.

H16-1234-19. Details of boundary treatment (Condition 7 of H16-0283-17). APPROVED . 05-03-20.

H16-0923-19. NON MATERIAL AMENDMENT. APPROVED 19-09-19.

H16-0686-19. Details of landscaping (Condition 6 of H16-0283-17). APPROVED 21-11-19.

H16-0468-19. Details of external materials (Condition 4 of H16-0283-17). APPROVED 14-05-19.

H16-0197-19. Details of Conditions 3 (contamination of land or pollution of controlled waters), 4 (external materials of construction), 5 (external boxes for gas and electricity supplies and of any gas flues and soil vent pipes), 8 (landscape management and maintenance schedule), 9 (means of storage and disposal of refuse and recycling), 10 (construction management to minimise disturbance during the construction process), 11 (prevent the deposit of mud on public highways), 15 (surface water drainage scheme), 16 (design and location of all lighting) & 17 (existing and proposed site levels and proposed floor levels) of H16-0283-17. APPROVED 26-04-19.

H16-1218-18. SECTION 73 MODIFICATION. Residential Development of 20 Dwellings - approved under H16-0283-17. Modification of Condition 2 to allow amendments to previously approved plans and Conditions 13 and 14 relating to commencement/occupation of dwellings in conjunction with roads and footpaths. APPROVED 06-03-19.

H16-0283-17. FULL. Residential development of 20 dwellings. APPROVED 30-07-18.

CONSULTATION RESPONSES

SHDC Environmental Protection

Response of 17-11-20

I have reviewed the information submitted in respect of validation for plots 17-20 and 6-9 of the

Willow Walk, Spalding residential development. The validation is in accordance with the Remediation Method Statement, which was agreed following detailed site investigation which considered potential on and offsite risks to identified receptors. The necessary works have been undertaken and I therefore have no outstanding concerns regarding plots 6-9 & 17-20.

The developer has submitted information for these plots in advance of completing the whole site in order to make sure the validation is acceptable. If, as expected, a similar quality of validation is received for the remainder of the plots I am confident that I will be able to recommend discharge of the land contamination condition in full. The developer will have assessed and addressed all aspects of contamination at this location, and it will be fully suitable for the future residential end use. However, I will not be able to recommend discharge of condition 3 part iv of H16-0283-17 until validation is received for all plots.

Response of 14-01-21

I have reviewed the additional information presented relating to plots 1-5 and 10-14. There are no delivery notes or testing certificates with the report. Please can the applicant submit these so that they can be considered.

The applicant notes that the soil is from the same source, and whilst we accept British Sugar Topsoil without additional testing, other sources do require validation testing. The applicant comments that 'because they are from the same source as previous plots' testing is not required. There has been 6 months between the two visits by the geo-environmental engineer, and as such it would not necessarily expect the subsoil from one supplier to have come from the same source given the time that has elapsed. Obviously the delivery notes will assist with this, but even so, the soil needs to be sampled at the agreed rate to ensure it is suitable to for inclusion in residential gardens.
I assume that plots 15 & 16 are still to follow?

Response of 24-02-21

I have reviewed the Geomatters Consulting letter report dated 5th February 2021 'GML18246: Sampling and Analysis of Subsoil Capping Materials at the Site off Willow Walk, Spalding' and recommend discharge of condition 3 of H16-0283-17 in full.

Response of 15-07-21

Has reviewed the Geomatters Consulting letter report dated 5th February 2021 'GML18246: Sampling and Analysis of Subsoil Capping Materials at the Site off Willow Walk, Spalding' and recommend discharge of condition 3 of H16-0283-17 in full.

I make no comment regarding the change in proposed finished levels from the originally approved plans, as it is my understanding that these are the levels that were in place when the remediation validation was undertaken. The remediation solution remains secure in that case.

However, if these finished levels are not agreed and physical change is required onsite, the effectiveness of the remedial solution will need to be reviewed urgently and I would ned to retract my recommendation that the land contamination condition be discharged.

If a reduction in site levels (relative to existing) is required, then the original remedial strategy will need to be revisited before any worked commenced, such that the full thickness of 600mm clean cover is retained below the finished level. This could mean excavation of the clean cover, removal of made ground soil at depth, then replacement with the clean cover and further validation.

If there is an increase in site levels, it will be necessary to ensure that any imported soil is suitable for the residential use.

No comments on amendment 3, comments of 15/7/21 still apply.

Response of 24-08-21

I understand that the Building Control Manager is going to site tomorrow to check that the levels shown on the Drawing ref. 07-0123-005 rev P7 are those actually present. If this is the case, then there hasn't been any changes to the cover system thickness, and I have no further comment, if

they don't match please come back to me.

EHO confirmed on 31 August 2021 that the details were acceptable.

LCC Highways & SUDS

Response of 07-09-20

Does not wish to restrict the grant of permission.

Condition 3 - Not for LCC consideration
Condition 7 - Not for LCC Consideration
Condition 9 - The location for the proposed refuse collection point is acceptable, however, this could have an impact on the ability to utilise the area for sustainable drainage solutions.

Having given due regard to the appropriate local and national planning policy guidance (in particular the National Planning Policy Framework), Lincolnshire County Council (as Highway Authority and Lead Local Flood Authority) has concluded that the proposed development is acceptable and accordingly, does not wish to object to this planning application.

Response of 19-08-21

Does not wish to restrict the grant of permission.

To update the response of the Highway Authority and Lead Local Flood Authority dated 7 September 2020 in the light of the final submitted drawings;

The matters covered by Conditions 3 and 7 remain outside of the jurisdiction of this Authority and therefore, the submitted 'No objections' response is still effective in respect of those Conditions. With the later amendments to the drainage strategy for the roads and footways on this site, to a positive system of gullies, pipes, underground attenuation modular crates and a pumped off-site outfall, into an Anglian Water surface water sewer in Osier Road, there are no sustainable drainage features for the roads and footways that would be affected by a communal refuse collection point.

Furthermore, it is understood that arrangements are being made to put in place an indemnity that will allow the Local Authority refuse collection vehicles to go onto this private estate road in order to make collections from outside of the individual dwellings and therefore a communal collection point, close to the public highway, is no longer necessary.

Accordingly, the Highway Authority and Lead Local Flood Authority now confirms a 'No objection' response in respect of Condition 9.

Response of 20 August 2021

This is the final response from Lincolnshire County Council in respect of the highway and surface water flood risk impacts of the residential development Consented under H16-0283-17 for which Modification of Conditions 2, (drawings including drainage strategy), 12 (property occupation) & 17 (levels) are proposed under Application number H16-1091-20.

In respect of the highways;

Because the drainage of the road and footway areas of the development is reliant upon an arrangement of a privately-maintained pump and a piped outfall connection to an Anglian Water sewer which passes through third party land, the Highway Authority has declined to adopt the roads and footways as Public Highway and the responsibility for the future maintenance of the road and footways will therefore rest with owner of the site, Cross Keys Housing or its successors.

Never-the-less, because the Highway Authority has a duty to ensure that new residential developments of a certain size are adequately accessible, the construction of the roads and footways has been undertaken with routine inspections throughout by an officer of the Authority. Material testing has been undertaken throughout by the developer and the results of that testing has been shared with the Authority. The Authority is therefore satisfied that the road and footways have been constructed to a standard which is equal to that of an adoptable estate road and will provide safe, suitable and durable access for residents of the development, their visitors and for service

vehicles, such as the refuse collection vehicle and vehicles making deliveries to homes on the development. The turning area on the site is of sufficient size to allow the refuse collection vehicle and delivery vehicles to turn around within the development so that their drivers do not have to reverse out onto the Public Highway (Willow Walk). The construction of the road is adequate to bear the wheel loadings of those service vehicles. The number of off-carriageway parking spaces provided on the development is appropriate for the residential homes within the development.

In terms of meeting the highway requirements of the NPPF, the Highway Authority is satisfied that the development would not be expected to have an unacceptable impact upon highway safety.

In respect of surface water flood risk;

The principal factor to be born in mind for this development, when considering its potential for creating or increasing surface water flood risk, is that it is constructed on a 'Brownfield Site'. The surface of this site, known as 'Law's Yard', was previously almost entirely covered by commercial buildings and hard-standing areas. This can be seen on the aerial view of the site that has been submitted as the Site Location Plan for this Application. There is understood to have been no positive surface water outfall from the previous developed site to an off-site means of disposal such as a sewer or watercourse - had there been so, then the developer would surely have utilised that means of disposal. Therefore, all surface water falling onto the commercial site would have had to have been disposed of, by un-attenuated infiltration, into the soils beneath what little open space there was on the site that was neither buildings nor hard-standing.

The developed site now has a much greater proportion of its surface area that is permeable lawns and planted areas. These areas allow direct infiltration of rainwater into the underlying soils.

All rainwater falling on those parts of the development that are impervious is now managed.

Rainwater falling onto the site's road and footways is guided by the gradients of the road and footways into road gullies. The water in those gullies is then conveyed by a pipe and manhole network to a pump that lifts the water into a downstream pipe network running through the garden of number 2a Osier Road which then discharges the water off-site into an Anglian Water sewer in Osier Road. Immediately upstream of the pump is an underground cellular crate reservoir that will store storm water during those times when the volume of rainwater coming off the road and footways exceeds the capacity of the pump. The gullies, pipes and the manholes up-steam of the pump have an internal volume that is also able to provide storage of water during heavy storm events. What this means is that the ground beneath the site has to absorb approximately 20% less of the rainwater falling on the site, because the rainwater from the road and footways will now be conveyed away from the site and the ground will thus have an increased capacity for absorbing surface water from other parts of the site.

The site's driveways and car parking areas are constructed with permeable block paving. This not only allows rainwater to infiltrate into the ground directly where it falls but also provides underground storage of surface water in the voids between the Type 3 aggregate that is used as a sub base. This means that in heavier storm events, water that is not able to immediately infiltrate into the ground can be held underground and not therefore build up above ground and potentially overflow onto adjacent land and property.

The remaining significant areas of impermeable surface on the site are the house roofs. Rainwater falling on the roofs is conveyed by guttering, downpipes and underground pipes into eight separate and un-connected soakaways which have been constructed under rear garden areas and under car parking/manoeuvring areas. These are cellular crate type soakaways (rather than simply holes in the ground filled with waste bricks and concrete) and have been individually designed to accommodate the volume of water from the impervious areas that they serve during storm conditions and then infiltrate that water into the surrounding soil. The soakaways were constructed in the virgin ground prior to the building-up of the level of the whole site to address the Environment Agency's coastal and fluvial flood risk requirements.

The submitted details include a flood routing plan. This, together with the submitted External Levels Plan, show how, during severe storm events, any build-up of surface water that is not able to get away from the site via the pumped connection into the Anglian Water sewer or to infiltrate into the sub-soil would be guided towards, and contained within the footprint of the carriageway, which lies lower than all but the rear garden areas of the properties that are on the south-eastern and south western edges of the site (plots 1 to 9). The carriageway has a kerb up-stand of 110mm and would

therefore be able to contain a considerable volume of storm water until it is able to be pumped away into the Anglian Water sewer. Whilst this may be a short-term inconvenience, the storm water would thus not be a threat to life, limb or property. Whilst it is acknowledged that the rear gardens of the properties on the south-eastern and south-western edges of the site do slope towards neighbouring properties, the gradient is not at all steep and these garden areas are laid to grass. It is therefore expected that the storm water would infiltrate into the ground rather than flow overland onto neighbouring property.

The objection e-mail from residents of a neighbouring property in Cley Hall Drive, has been referred to the highway authority. In it, reference is made to an earlier response from a fellow highways officer about the drainage proposals for the development. The objectors are understandably concerned about any increase in flood risk to their property. It is reported that in separate correspondence or conversation between the residents and the fellow highways officer, reference was made to surface water coming onto their property, from the Application Site, being contaminated. The highway authority has neither the expertise nor the jurisdiction in matters of site contamination and therefore any such comment, written or verbal, is clearly outside of the professional competence of a highways officer and of course wholly inappropriate. Such matters are for the expertise of the Local Authority's Environmental Protection Officer and apologies are offered to the residents and to the Local Planning Authority for the unnecessary concern and additional work that this ultra vires comment has caused. In respect of the perceived increase in surface water flood risk to the neighbours' property from the Application Site; scaling from Ordnance Survey plans, the part of the neighbours' property boundary that is shared with the Application Site is just under 7 metres in length (although there does appear to be an area of undeveloped 'no man's land' lying between the red outline of the Application Site and curtilage of the neighbouring property). Whilst the gradient of the post-demolition/pre-development site may have been generally towards the south-east, towards properties on Cley Hall Drive and Rutland Close, the residential development now on the site slopes in numerous directions but, as can be seen on the submitted External levels Plan, almost entirely towards the carriageway in the centre of the site. The only elements of the development that, by proximity, could conceivably pose a surface water flood risk to the neighbouring property would be Soakaway 8, in the garden of Plot 5, and the rear garden area of Plot 5. As indicated above, the soakaways on the site were excavated in the virgin ground of the Application Site, before the levels of the site were built-up. Soakaway 8 will be wholly below the level of the neighbouring property and cannot therefore discharge water onto that neighbouring property. The design and provision of private domestic soakaways fall under the jurisdiction of Building Control. Whilst it may not be possible for a Building Control Officer to be present on site to witness the construction of every soakaway on a development site, the Local Authority Building Control officer has advised that the footings for the pathway at the rear of Plot 5 were inspected and at that time Soakaway 8 was completed in the virgin ground. The Highway Authority is therefore satisfied that this soakaway is constructed below the level of the neighbouring property. It is understood that there is currently no prescribed standard for the design of domestic soakaways. There would therefore appear to be no cause to reject the design of the soakaways on this development by reason of their design being based upon a 1 in 30 year storm event. Soakaway 8 accepts the rainwater from just the rear roofs of plots 5, 4 and half of plot 3.

This is a plan area of approximately 55 square metres. The volume of surface water run-off from this area will not be great and therefore any flows that might, in an extreme storm event, overwhelm the design capacity of soakaway 8 would not be expected result in any significant overland flow onto neighbouring land and property. Going back to the comment at the beginning of this response on the site's impact for creating or increasing surface water flood risk, the Application Site had previously been almost entirely covered by buildings and hard-standing areas and the site's surface water run-off would have been completely un-managed. If there had been no flows of surface water from that commercial development onto adjacent land and property, it is extremely unlikely that there would be any such flows with the residential development that is there now with a significant proportion of the site's water being taken off the site into the Anglian Water sewer, an increase in the proportion of the site that is directly permeable and with an effective infiltration-based drainage system that also has capacity to safely store the water from heavier storm loadings either by containing it within the footprint of the carriageway or underground in the voided stone sub base, the crate attenuation tank or modular crate soakaways.

Public

Representations have been received from 4 households, raising the following matters:

Objections

One objection to originally submitted application:

- Flood Risk to a property in Cley Hall Drive
- Ground Contamination potential for gardens in Cley Hall Drive
- Lack of soft landscaping hereby increasing both the flood risk and the risk of run-off/contamination to Cley Hall Drive
- Privacy to Cley Hall Drive as result of land level changes
- Impact on Sycamore Tree covered by TPO

Objections from four households to revisions and additional details submitted:

- Too much green space is taken by the development
- Details of the fencing to Plot 9 having a mix of two different heights of fencing. It would be much better to have the trellis along the whole stretch of that fence. Also concrete barge boards would also be better
- Cannot see where the changes are in the levels. Because of this I am objecting to the ground level changes as they are not clear. Perhaps I could suggest a document is submitted clearly outlining the change in ground levels. I agree with the boundary treatments and thank the developer for working with me to get a satisfactory solution.
- We are also concerned that the last statement from Lincolnshire County Council, which is on public record on the SHDC website, indicates that there is an increased flood risk unless changes are made, and that this could impact both the insurability and saleability/resale value of our property in the future.
- Very strong objection with regard to the removal of the privacy screens from plots 10 to 14 at the rear of the building. I had assumed that previous correspondence between me and the builder and developer had understood the screens were essential to maintain privacy and on the actual patios maintain safety.
- Persons standing on the patio areas of plots 10-14 will have a direct view into a bedroom window. The screens were designed to eliminate this issue.
- Regarding safety. The patio is around 1m above the ground level and is a safety risk for fall; will not accept the garden levels being raised to eliminate this.
- The screens have been removed due to a financial consideration however the removal causes issues to myself and neighbours. They need adding back to the design and the submitted plans rejected
- Happy to compromise and agree to timber screens but do expect them to be included in plans as I have little trust that they will be added otherwise.
- Flood Risk to a property in Cley Hall Drive
- Ground Contamination potential for gardens in Cley Hall Drive
- Lack of soft landscaping hereby increasing both the flood risk and the risk of run-off/contamination to Cley Hall Drive
- The outer fence for plot 5 (marked in green on Plan 18011 1004 P06) should be the same height as that of the adjacent wall. However, the actual height starts off slightly lower than this and drops toward the south eastern end meaning that this end is at least 6 inches or so lower than that stated in the plans.
- Concerned that the last statement from Lincolnshire County Council, which is on public record on the SHDC website, indicates that there is an increased flood risk unless changes are made, and that this could impact both the insurability and saleability/resale value of our property in the future.

Comments/Support

One objector subsequently to remove objection provided the 1.8m screens are reinstated. This was confirmed by a representation of support dated 31 August 2021, stating "I am in support of the proposal and have no objection to the changes made."

Officer note: One household withdrew objection - "I am happy to remove my objection provided the 1.8m screens are reinstated and submitted by the next panel review. I would be grateful if you could let me know when the revised plans have been submitted."

Although this household submitted objections that were withdrawn, as set out above, for completeness these objections are still included in this report and the issues discussed.

PLANNING CONSIDERATIONS

If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise.

Whether the submitted details are acceptable in order to allow the relevant conditions to be discharged. These conditions were appended to the original permission as a result of the complexity of the site, and its location within the flood zone and the impact this has upon levels.

A further level of complexity has been introduced as the development was not constructed to the approved levels and after commencement it became apparent that the developer no longer intended for the highway to be adopted. This has had impacts upon the form of boundary treatments required, the levels across the site and the resultant impacts on neighbouring amenity, as well as drainage detailing. This history of the site has been carefully considered by officers when considering whether the conditions subject to this application should be discharged. All of the consultation representations have also been taken into account and considered carefully, including those from local residents and neighbouring properties. A full copy of the representations may be found under the application reference H16-0635-20.

Condition 3

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.

Additional details were submitted, consisting of specific soil testing to a recognised methodology, and details of the topsoil brought on to the site, during the consideration of this application, and were considered in detail.

An objector has set out concerns that this development would lead to surface water passing from the site and depositing flood water and contaminants on to a private garden. The details of the levels of this site when read in conjunction with the land contamination measures, as well as the boundary treatments; which include substantial concrete gravel boards in places; have been carefully considered and the officers of SHDC and LCC conclude that the development has in place sufficient measures to to fully mitigate the risk of surface water, and the contamination measures, as discussed by the EHO above, are considered acceptable.

SHDC Environmental Protection have confirmed that the details are acceptable and this condition can be discharged. The details are in accordance with Policy 30 of the SELLP. The sequence of responses from the EHO is set out above, for clarity and for all these reasons officers remain confident that Condition 3 may be discharged as they are satisfied there are no unacceptable risks arising from contamination. Officers are also comfortable that there are no unacceptable impacts or risks arising from flooding following the surface water drainage measures proposed.

Condition 7

Prior to its installation, details of the proposed boundary treatment, including a schedule of 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.

Revised details were submitted during the consideration of this application, and were considered in detail. For clarity, the boundary treatments are now as follows:

Plots 1 to 5:

Immediate boundaries to garden areas: 1.8m close board fencing (CBF). Height taken from the highest point of adjacent new turfed area.

Boundary to site:

To west side of Plot 1: 2.25 CBF with trellis above.
To southern boundary of plots 1 to 4, outside garden fence, forming site boundary - 2.55m CBF.
Rear of Plot 5: 2.55m CBF.

East of Plot 5 and road to front of this plot: 1.8m close board fencing (CBF). Height taken from the highest point of adjacent new turfed area.

Plots 6 to 9:

Immediate boundaries to garden areas which also form the boundary to site: 1.8m close board fencing (CBF). Height taken from the highest point of adjacent new turfed area. Also 1.8m CBF to rear of parking spaces for Plots 7 and 8, and the northern boundary of Plot 9.

Plots 10 to 14:

Immediate boundaries to garden areas: 1.8m close board fencing (CBF). Height taken from the highest point of adjacent new turfed area for plots 10, 13 and 14.

Eastern boundary to site and rear of Plots 11 and 12: 2.25m CBF with trellis above.

In addition, drawings have been received showing the screens being reinstated to the rear patio areas of plots 10, 11, 12, 13 and 14. This overcomes a wider matter of perception of overlooking, however can be read in conjunction with the details of the boundary treatments. As a result of the receipt of the amended plans on 19 August a further reconsultation of the adjoining residents who have objected has been undertaken, and an updated response if any are received shall be reported to the Chairman's Panel.

Western boundary to site: Existing boundary treatments retained and replaced like for like if damaged during construction.

Plots 15 to 20:

Immediate boundaries to garden areas: 1.8m close board fencing (CBF). Height taken from the highest point of adjacent new turfed area.

Boundary to site: Existing boundary treatments retained and replaced like for like if damaged during construction.

The boundary treatment details have been specifically amended to take into account the potential for overlooking, and the perception of overlooking of adjoining residents.

The details of the boundary treatments as now proposed have been carefully detailed to take into account the concerns raised by residents; the height of fencing has been raised along some boundaries, and privacy screens specified within Plots 10 to 14, to take in to account residual overlooking concerns. The site has been revisited and the levels checked, as well as the overlooking impacts considered in detail. It is considered that the boundary treatments set out within the plans are considered to be acceptable and would maintain the privacy and amenity of the neighbouring residents, in line with Policies 2 and 3 of the SELLP.

Condition 9

Details of the means of storage and disposal of refuse and recycling shall be submitted to and be approved by the Local Planning Authority and the development shall not commence in advance of that approval. The approved scheme shall be fully implemented before the first occupation of the development and shall thereafter be retained in perpetuity.

When originally approved, this development was to be served by an adopted road. This was changed during the construction of the development and the road within the site is now to be a private road. As a result, an alternative method of refuse collection is required.

A refuse collection point the front of the site for this quantum of development would not be considered to be an appropriate solution, and an indemnity has been put in place between the developer and SHDC to enable refuse vehicles to traverse the private road in order to undertake refuse collection. This indemnity is dated 19 August 2021 and is to form one of the approved documents.

The refuse collection details are now considered sufficient to enable discharge of Condition 9

Other matters

An objection has been received giving the view that too much green space is taken by the development. It is not clear whether this objection relates to the principle of the development of this brownfield site, or whether objection is raised to the level of landscaping within the site.

Looking at these two matters, the principle of the development of this site and the extent of garden areas, shared spaces and landscaping were agreed by the grant of the host planning permission. This application relates to the discharge of specific conditions and does not re-open the principle of the development, which was considered acceptable.

Each dwelling within this development is to have its own private garden area, and this, together with the shared open space within the development represents an acceptable level of green space for this site.

With regard to the objection related to the Sycamore tree, the boundary treatments do not have an impact on the Sycamore Tree covered by TPO, which is largely sited on adjoining land. A concern has been raised by a local resident that the tree has bricks and refuse beneath it, however this area of land beneath the tree is not within the application site, nor is it within the control of the applicant. On viewing the bricks and refuse, it appears that this has been the case for some time, and precedes the development of the application site. It may be that this land has been accessed by another neighbouring resident to the site, however this is not a matter to be resolved via this application and in any event officers remain comfortable that the proposed conditions to be discharged pursuant to this application do not impact on this Sycamore Tree.

With regard to a statement from Lincolnshire County Council, regarding impacts to the insurability and saleability/resale value of property in the future, this statement was overtaken by the consultation response from LCC of 19-08-21. Any recourse or complaint regarding this statement by an LCC officer is to be addressed by LCC. With regard to this application, the LCC officer's opinion regarding non-planning matters are not relevant to the consideration of this application and can be given no weight. Officers have therefore paid no regard to this statement from LCC and only considered and applied those representations from LCC that are relevant to the subject matter of the conditions being discharged.

CONCLUSION

After detailed consideration of the submissions, the development as it now is on site and the responses of consultees, officers conclude that in totality the package of measures including the latest boundary treatments (which in terms of most vociferous objector we have now agreed) cover all amenity and technical concerns as far as practicable given constraints of site.

The details submitted to discharge these conditions are now considered to be acceptable and are considered to satisfactorily address the representations made by local residents; consultees; and meet the requirements of the relevant planning policies as detailed above.

For the avoidance of doubt officers have also considered throughout the determination of these applications whether enforcement action should be investigated arising from the the breaches of planning conditions and deviation from those details originally approved. Officers remain of the view that it not expedient to take any enforcement action in consideration that the details now provided to discharge these conditions are considered to be acceptable in all respects. Officers remain of the view that the determination of these applications remains in the all circumstances the most appropriate way to resolve matters and for all the reasons set out in this report are content that the applications should be approved.

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.

RECOMMENDATION

That the application be approved under delegated powers.

The application was considered by the Chairman's Panel meeting of 3 September 2021 and it was agreed that a delegated determination was appropriate.