DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H16-0919-23**	**Applicant:**	**West Nurseries Ltd**
Proposal:	Details of consent granted by South Holland Internal Drainage Board under Byelaw 3 to discharge surface water to the adjacent watercourse (Condition 3 of H16-0574-23)		
Location:	20 Mallard Road Low Fulney Spalding		
Terminal Date:	13th December 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 2023

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
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

CASE OFFICER ASSESSMENT

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.

PROPOSAL

This is a condition compliance application at Wests Nurseries Ltd, 20 Mallard Road, Low Fulney. This application seeks to address Condition 3 of H16-0574-23 to confirm that consent has been granted by South Holland Internal Drainage Board under Byelaw 3 to discharge surface water to the adjacent watercourse.

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.

H16-0574-23

Full - Proposed storage lagoon to provide attenuation for glasshouses constructed in 2011 - Approved - 17 August 2023.

CONSULTATION RESPONSES

South Holland Internal Drainage Board

"I can confirm that an application was made to the Board by the applicant, West Nurseries Ltd, for the discharge of surface water under Byelaw 3. Consent was subsequently granted by the Board on 9th October 2023 (our reference 23_23331_C) as viewable on the planning portal . Please could I draw your attention to two conditions of the consent:"

"C1 "You must construct the flood risk alleviation feature known as Lagoon 3 as shown in figures 2 & 3 and to the size as designed in documents 2023_01_16 Second Review of Surface Water Drainage (S.Hemmings, 16/01/2023) (Annex B), drawing Plan of Proposed Works (S Hemmings 24/07/2023) & 2023_07_19 Surface Water Lagoon Details (S.Hemmings, 19/07/2023) (Annex A) and as specified below".

"C3 "Consent is granted subject to the proposed works being completed within 3 years of the date of this letter. Failure to complete the works in accordance with this time period, and/or in compliance with the conditions contained in this letter, may result in this consent being invalidated and could necessitate the removal or remediation of any works. Within this time period the consent cannot be sold, inherited or otherwise passed on without prior written agreement being obtained from the Board, unless the works have previously been completed in accordance with the conditions/specification contained herein"."

"Should the applicant propose any changes to the approved surface water drainage strategy, they should contact the

Board."

EVALUATION

Compliance with Condition 3 of H16-0574-23 - Consent from SHIDB to discharge surface water

The South Holland Internal Drainage Board have confirmed in their consultation response that consent has been granted to discharge surface water under Byelaw 3. The Board also stated that should the applicant proposed any changes to the surface water drainage strategy that they should contact the Board.

No information has been submitted alongside this application to indicate that the applicant wishes to proposed any changes to the approved drainage strategy. Therefore, Condition 3 of H16-0574-23 is considered to have been complied with.

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. Condition 3 of H16-0574-23 related to surface water drainage is considered to have been complied with.

CONCLUSION

This application is in accordance with Policies 1, 2, 3, 4 and 28 of the South East Lincolnshire Plan, 2019, as well as Sections 6, 12, 14 and 15 of the National Planning Policy Framework, 2023.

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.