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TOWN AND COUNTRY PLANNING ACT 1990
SECTION 73 MODIFICATION

Reference: H17-0843-26 **Date of Decision:** 30th October 2026

Applicant: Mr M Yould
Trent Farm
Dozens Bank
West Pinchbeck
Spalding
PE11 3NA

Location: Flaxmill House 12 Reservoir Road Surfleet Spalding

Description: Erection of 2 dwellings - Approved under H17-0128-24. Modification of Condition 2 to allow amendments to previously approved plans

South Holland District Council hereby give notice that permission has been GRANTED (or equivalent) subject to the following condition(s):

1 The development hereby approved must be begun no later than the expiration of three years beginning with the date of the permission granted under reference H17-0128-24 on 08th April 2024.

Reason: As required by Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall be carried out in accordance with the following approved plans/documents:

H17-0843-26

- A2-3365-00 - Plot 1 Elevations
- A2-3365-20 - Plot 2 Elevations
- A2-3365-S00 - Proposed Plans

- 672/2/2024 - Proposed Floor Plans & Garage - Plot 1
- 672/4/2024 - Proposed Floor Plans & Garage - Plot 2
- 672/5/2024 - Proposed Elevations, Floor Plans & Roof Plans Garage - Plots 1 & 2
- Details of gas and electric meter boxes
- Flood Risk Assessment (Rev A) prepared by S M Hemmings dated 12 February 2024
- Phase 1 Desk Study Report by Chevin Geoenviro Associates Ltd dated December 2019
- Groundsure Insights Maps
- Phase 2 Site Investigation Report by Chevin Geoenviro Associates Ltd dated November 2020
- Contamination Delineation correspondence (Ref. C0362-LR02) by Chevin Geoenviro Associates Ltd dated 16 June 2022

Reason: For the avoidance of doubt and in the interests of proper planning.

3 A full copy of a contaminated land verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. 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 objectives and criteria 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.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

4 If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason: To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site.
This Condition is in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019 and the National Planning Policy Framework, 2026.

5 The approved scheme of boundary treatment on drawing no. A2-3365-S00 shall be implemented in full before the development is first brought into use. It shall include 2 metre high close boarded fencing along the western boundary to terminate at the front elevation of the dwelling on Plot 1.

Reason: In the interests of the character and appearance of the development and the

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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.

6 The approved scheme of landscaping and tree planting on drawing no. A2-3365-S00 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.

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.

7 The development shall be carried out in accordance with the submitted flood risk assessment undertaken by S M Hemmings (Revision A, dated 12 February 2024) and the following mitigation measures it details:

· Finished floor levels shall be set at 4.65m above Ordnance Datum.
· The development shall have at least two storeys.
· Flood resilience and resistance measures shall be incorporated into the proposed development as stated in the submitted FRA.

These mitigation measures shall be fully implemented prior to occupation and subsequently shall be retained and maintained thereafter throughout the lifetime of the development.

Notes:
The applicant is advised to refer to the following document for information on flood resilience and resistance techniques that could be incorporated into the development: "Improving Flood Performance of New Buildings - Flood Resilient Construction" (Department for Communities and Local Government, 2007).
Future occupants are advised to sign up to the Environment Agency's free Floodline Warnings Direct Service.

Reason: To reduce the risk of flooding to the proposed development and future occupants.
This Condition is in accordance with Policy 4 of the South East Lincolnshire Local Plan, 2019 and advice within Section 18 of the National Planning Policy Framework, 2026.

8 Four swift nest bricks shall be incorporated within the external walls of each of the dwellings hereby approved in accordance with the approved details. They shall be installed prior to occupation of the dwelling to which they relate and shall be retained thereafter.

Reason: In the interests of biodiversity.
This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019.

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Notes:

The Local Planning Authority has acted positively and proactively in determining this application by assessing it against all material considerations, including national guidance, planning policies and representations that have been received during the public consultation exercise, and subsequently determining to grant planning permission.

This decision notice, the relevant accompanying report and the determined plans can be viewed online at http://planning.sholland.gov.uk/OcellaWeb/planningSearch

The permitted development requires the formation of a new/amended vehicular access. Applicants should note the provisions of Section 184 of the Highways Act 1980. The works should be constructed to the satisfaction of the Highway Authority in accordance with the Authority's specification that is current at the time of construction. For further information, please telephone 01522 782070.

Please contact the Lincolnshire County Council Streetworks and Permitting Team on 01522 782070 to discuss any proposed statutory utility connections and any other works which will be required within the public highway in association with the development permitted under this Consent. This will enable Lincolnshire County Council to assist in the coordination and timings of these works.

Biodiversity Net Gain

The applicant's attention is drawn to the following Biodiversity Net Gain requirement.

The effect of Paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 is that planning permission is deemed to have been granted subject to the "biodiversity gain condition". The effect of this "biodiversity gain condition" is that development granted by this notice must not begin unless:

(a) a Biodiversity Gain Plan has been submitted to the planning authority, and

(b) the planning authority has approved the plan, or

(c) the development is exempt from the biodiversity gain condition.

For guidance on the contents, in respect of the details that must be submitted and agreed by the Local Planning Authority, prior to the commencement of the consented development, please see the GOV.uk website and Planning Practice Guidance.

Statutory exemptions and transitional arrangements

There are statutory exemptions and transitional arrangements which mean that the biodiversity gain condition does not always apply. These can be found at Paragraph: 003 Reference ID: 74-003-20240214 of the Planning Practice Guidance, which can be found at
https://www.gov.uk/guidance/biodiversity-net-gain.

Based on the information available and submitted in support of this application, the Local

Planning Authority considers that the development hereby permitted is exempt and therefore will not require the approval of a biodiversity gain plan, prior to the commencement of development; with the development comprising a statutory exemption as listed below: -

- Variation of an Existing Permission.

As such, the development hereby permitted will not be subject to the biodiversity gain condition.

Irreplaceable habitat

If the onsite habitat includes irreplaceable habitat (within the meaning of the Biodiversity Gain Requirements (Irreplaceable Habitat) Regulations 2024) there are additional requirements for the content and approval of Biodiversity Gain Plans.

For clarity the LPA do not consider that irreplaceable habitats are present at this site.

The Biodiversity Gain Plan must include, in addition to information about steps taken or to be taken to minimise any adverse effect of the development on the habitat, information on arrangements for compensation for any impact the development has on the biodiversity of the irreplaceable habitat.

The planning authority can only approve a Biodiversity Gain Plan if satisfied that the adverse effect of the development on the biodiversity of the irreplaceable habitat is minimised and appropriate arrangements have been made for the purpose of compensating for any impact which do not include the use of biodiversity credits.

Effect of Section 73(2D) of the 1990 Act

Under Section 73(2D) of the Town and Country Planning Act 1990 (as amended) where

(a) a biodiversity gain plan was approved in relation to the previous planning permission ("the earlier biodiversity gain plan"), and

(b) the conditions subject to which the planning permission is granted:

(i) do not affect the post-development value of the onsite habitat as specified in the earlier biodiversity gain plan, and

(ii) in the case of planning permission for a development where all or any part of the onsite habitat is irreplaceable habitat within the meaning of regulations made under paragraph 18 of Schedule 7A, do not change the effect of the development on the biodiversity of that onsite habitat (including any arrangements made to compensate for any such effect) as specified in the earlier biodiversity gain plan.

- the earlier biodiversity gain plan is regarded as approved for the purposes of paragraph 13 of Schedule 7A of the Town and Country Planning Act 1990 (as amended) in relation to the planning permission.



Phil Norman
Assistant Director - Planning and Strategic Infrastructure
South Holland District Council

BUILDING REGULATIONS:
This decision refers only to planning permission as granted under the Town and Country Planning Act 1990. The works that you are proposing may also require Building Regulations and this planning permission does not give authority under Building Regulations to commence work. Please contact the Building Control team for further information on 01775 764557 or bcadmin@sholland.gov.uk

BUILDING REGULATIONS 2010:
The plans given approval as part of this application, may require the provision of additional information or amendment to show compliance the relevant requirements of the Building Regulations 2010. Typical circumstances include, highly glazed extensions achieving compliance with requirement L1 (Conservation of fuel and power) which may influence the areas of glazed elements/ building elevations, or requirement B1 (Means of warning and escape) which may influence an internal layout for fire safety purposes. Please contact the Building Control team for further information on 01775 764557 or bcadmin@sholland.gov.uk

RIGHTS OF APPEAL

Appeals to the Secretary of State

If you are aggrieved by the decision of your Local Planning Authority to refuse permission for the proposed development or grant consent subject to conditions, then you can appeal to the Secretary of State under Section 78 of the Town and Country Planning Act 1990 or Section 20 of the Planning (Listed Building and Conservation Areas) Act 1990.

Timescales for appealing

The deadlines for appeals are calculated from the **date of decision** and are as follows for the types of applications below:

12 Weeks	6 Months	8 Weeks
Householder Applications	Planning Permission	Consent to Display Adverts
Minor Commercial Development	Listed Building Consent	
Agricultural Determinations	Other Prior Approval Applications	
Householder Prior Approval Applications		

https://www.gov.uk/appeal-householder-planning-decision

https://www.gov.uk/appeal-planning-decision

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate (inquiryappeals@planning inspectorate.gov.uk) at least 10 days before submitting the appeal. Further details are on GOV.UK.

Enforcement Notices

If an enforcement notice was served prior to the planning application being determined then the deadline for appealing is 28 days from the date of the **planning refusal**.

If an enforcement notice is served after the planning application is determined then the deadline for appealing is 28 days from the date of the **enforcement notice** OR **the timescales stated above for each application type** from the date of the planning refusal - whichever is sooner.

Appeals can be made online at: **https://appeal-planning-decision.service.gov.uk/before-you-start**. If you are unable to access the online appeal form, please contact the Planning Inspectorate to obtain a paper copy of the appeal form on tel: 0303 444 5000.

The Secretary of State can allow a longer period for giving notice of an appeal but will not normally be prepared to use this power unless there are special circumstances which excuse the delay in

giving notice of appeal.

The Secretary of State need not consider an appeal if it seems to the Secretary of State that the Local Planning Authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under the order.

Purchase Notices

If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grant it subject to conditions the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by the carrying out of any development which has been or would be permitted.

In these circumstances the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of the Part VI of the Town and Country Planning Act 1990 or Section 32 of the Planning (Listed Building and Conservation Areas) Act 1990.

Compensation

In certain circumstances compensation may be claimed from the Local Planning Authority if permission is refused or granted subject to conditions by the Secretary of State on appeal or on reference of the application to him.

These circumstances are set out in Section 114 and related provisions of the Town and Country Planning Act 1990 and Section 27 of the Planning (Listed Building and Conservation Areas) Act 1990.