

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-0956-24 **Applicant:** RTW Construction & Development Ltd

Proposal: Details of chestnut pale or similar fencing and existing trees (Conditions 6 iv and 7 of H17-0236-20)

Location: Peggys Way Surfleet Spalding

Terminal Date: 16th January 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

28 The Natural Environment

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application seeks to discharge conditions 6 iv and 7 of permission H17-0236-20. Permission H17-0236-20 granted outline consent for 60 dwellings on 15 September 2021. Conditions 6 and 7 require trees within the site to be protected during construction works, and for trees to be retained as agreed.

Site Description

The site is within the settlement boundary of Surfleet, and is an allocated site referenced Sur016 in the Local Plan, with an indicative site capacity of 44 dwellings.

Relevant Planning History

H17-0236-20: (Full Application) Residential development of 60 dwellings - approved 15 September 2021

H17-1138-21: (Section 73 Application) Residential development of 60 dwellings - approved under

H17-0236-20. Modification of Condition 2 to allow amendments to previously approved plans. Amendment to new developer house type drawings - approved 29 November 2022

H17-0127-22: (Discharge of Conditions) Details of surface water drainage scheme & proposed means of foul & surface water disposal (Conditions 12 & 17 of H17-0236-20) - approved 18 March 2022

H17-0162-22: (Discharge of Conditions) Details of boundary treatments, management plan for areas of publicly accessible open space & outdoor play areas, swift bricks/boxes, external materials, construction management plan & method statement, details of precautions to be taken to prevent mud deposits on public highways and lighting design (Conditions 4, 5, 8, 9, 13, 14 & 16 of H17-0236-20) - approved 06 June 2022

H17-0148-23: (Non Material Amendment) Residential development of 60 dwellings - approved under H17-1138-21. Amendments to facing brickwork - approved 20 February 2023

H17-0445-23: (Discharge of Conditions) Details of roads and footways (Condition 10 of H17-0236-20) - approved 20 June 2023

H17-0631-23: (Non Material Amendment) Residential development of 60 dwellings - approved under H17-0236-20. Amendment to position of double garage (Plot 40) and amendment to Boundary Treatment (Plots 39 & 40) - approved 09 August 2023

Consultation Responses

Tree Officer: Approve: Contents of Arboricultural Implications Plan. Tree Protection Plan /Arboricultural Method statement. (except for comment that 'Full planning consent overrides the need for a Tree Preservation Order works application' this is only true 'if such work is required to implement the planning permission.'-quote from Government Good Practice Guide.)

Key Planning Considerations

Condition 6 reads as follows:

"6) Where trees are shown to be retained on site they shall be protected during construction work as follows:

- i) chestnut pale or similar fencing 1.5 metres in height shall be provided around the trees to be retained before development is commenced at a minimum distance from the trunks equal to the spread of the crowns of the trees. No materials, equipment, site huts, fuels or other items shall be placed or stored within the areas enclosed by the fencing so erected and the ground levels within those areas shall not be altered, nor shall any excavation be made,
- ii) no burning of materials or other items shall take place within 3 metres of the crown spread of any of the trees to be retained;
- iii) no services shall be routed under the spread of the crowns of the trees to be retained;
- iv) no retained tree shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority;
- v) if any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of trees on the site. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National Planning Policy Framework, 2021."

Condition 7 reads as follows:

"7) None of the existing trees on the site shall be cut down, up-rooted, destroyed, topped or lopped unless first agreed in writing by the Local Planning Authority. If any tree which is to be retained dies or is to be removed it shall be replaced within six months thereafter with a tree of such size and species which shall be first be agreed in writing by the Local Planning Authority.

Reason: To ensure the protection of existing trees on the site, in the interests of the visual amenity of the locality. This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 15 of the National

Planning Policy Framework, 2021."

The council's tree officer has reviewed the submitted information and has confirmed that the information is satisfactory for conditions 6(iv) and 7 to be discharged.

Conclusion

The details address the requirements of conditions 6(iv) and 7 of permission H17-0236-20.

Recommendation

Discharge conditions 6(iv) and 7.

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.