

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H22-0931-23	Applicant:	HB Developments Ltd
Proposal:	Details of storage and disposal of refuse and recycling, existing and proposed site levels and proposed floor levels, surface water disposal, foul water disposal, boundary treatments, ecological biodiversity & contamination of land or pollution of controlled waters (Conditions 4, 6, 7, 8, 10, 11 & 12 of H22-0017-23)		
Location:	Plot Between 357 & 363 Broadgate Weston Hills Spalding		
Terminal Date:	15th 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
05	Meeting Physical Infrastructure and Service Needs
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 5 - Delivering a sufficient supply of homes
Section 11- Making effective use of land
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change
Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1

SHDC INTERNAL	0	0	0	1
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CASE OFFICER ASSESSMENT

Proposal

The application is to discharge conditions 4, 6, 7, 8, 10, 11 & 12 of H22-0017-23 (Details of storage and disposal of refuse and recycling, existing and proposed site levels and proposed floor levels, surface water disposal, foul water disposal, boundary treatments, ecological biodiversity & contamination of land or pollution of controlled waters).

Site Description

The site is located on Broadgate in Weston Hills. The site comprises a rectangular shaped plot, which is consistently level and located within agricultural land. The majority of the application site is located within the settlement boundary defined on the Local Plan proposals map for Weston Hills. The site is within the Environment Agency Flood Zone 3.

Broadgate, within the immediate setting of the application site, comprises a linear form of residential development, with residential properties consisting of single storey bungalows and two storey dwellings, fronting Broadgate to the eastern and western side of the highway, providing a continuity of development.

Located to the rear of these dwellings, along with the neighbouring residential properties to the eastern and western side of Broadgate, lies agricultural land, providing a clear rural setting and context with no back land development present.

History

H22-0017-23 - Outline - Residential development of 2 bungalows - Approved March 2023

H22-0769-23 - Reserved Matters - Residential development of 2 bungalows - outline approval H22-0017-23 - Approved October 2023

Consultation Responses

Internal Drainage Board

Byelaw 3 (Surface Water)

The applicant has indicated that they intend to dispose of surface water via infiltration, however I cannot see that the viability of this proposal has been evidenced. We recommend that ground investigation is carried out to determine infiltration potential, followed by testing in line with BRE Digest 365 if onsite material is considered favourable for infiltration. If infiltration is not feasible at this site, following the drainage hierarchy we would expect the applicant to propose to discharge surface water to a watercourse. In this case, consent would be required under Byelaw 3. Please note that we recommend that any discharge is in line with the Non-Statutory technical standards for sustainable drainage systems (SuDS), therefore the Board is unlikely to grant consent for discharges in excess of greenfield rate.

Byelaw 3 (Treated Foul Water)

I note that the applicant intends to dispose of foul water to a main sewer. Should the applicant's proposals change to include the discharge of treated foul water to a watercourse, consent would be required under Byelaw 3.

Section 23, Land Drainage Act 1991

I am not aware of any riparian owned/maintained watercourses within or adjacent to the site boundary, however this should be confirmed by the applicant. Should the applicant's proposals include works to alter a watercourse, or if works are proposed to alter a watercourse at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

Byelaw 10

There are no Board maintained watercourses within or adjacent to the site boundary therefore Byelaw 10 does not apply.

LCC Highways/SUDS

No objection: The matters covered by Conditions 4, 6, 7, 8, 9, 10, 11 and 12 do not impact upon highway safety or network capacity and therefore the highway authority does not wish to object to the discharge of those Conditions.

Environmental Protection SHDC

I have reviewed the EPS limited 'Phase I Geo-Environmental Desk Study Land Between 357 & 363 Broadgate Weston Hills Spalding PE12 6DB' EPS Reference Number: UK23.6651 Date Issued: 4th October 2023 Report Status: Issue 1 and in general agreement with the findings. I therefore recommend discharge of conditions 12 & 13 of H22-0017-23 in full.

Planning Considerations

The application is to discharge conditions 4, 6, 7, 8, 10, 11 & 12 of H22-0017-23 (Details of storage and disposal of refuse and recycling, existing and proposed site levels and proposed floor levels, surface water disposal, foul water disposal, boundary treatments, ecological biodiversity & contamination of land or pollution of controlled waters).

Condition Details

The conditions detail:

Condition 4

The development hereby permitted shall not be commenced before details of the means of storage and disposal of refuse and recycling, as well as appropriate management and maintenance, have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be fully implemented before the first occupation of relevant dwellings and shall thereafter be retained.

Note: For residential development, reference should be made to the Council's published PRIVATE DRIVES - WASTE VEHICLE COLLECTION SERVICE - GUIDANCE NOTE when submitting these details.

Reason: To ensure that adequate facilities are made available for refuse storage and disposal to avoid pollution, to protect residential amenity, and in the interests of the appearance of the site and the area within which it is set. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

Domestic waste and recycling are to be dropped at the roadside which is less than 30m from the permitted dwellings, to the roadside. The submitted details are considered adequate and can therefore be discharged.

Condition 6

Before the commencement of the development hereby permitted, full details of the existing and proposed site levels and proposed floor levels of the buildings, hard surfaced areas and garden/amenity areas, including any mitigation measures arising as a consequence (for example

increased height of boundary treatment), shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed and retained in accordance with the details so approved.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: To ensure that the Local Planning Authority retains control over the finished site and floor levels of the development, in the interests of the amenity of adjacent residents and its visual and architectural relationship with adjacent development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2, 3 and 4 of the South East Lincolnshire Local Plan, 2019.

The submitted detail does not provide any reference to existing site levels or proposed site levels, with the exception of a note on the drawing which specifies that the site is 'flat for all intents and purposes'. As detailed within the condition, full details of both existing site levels and proposed site levels, are required. This would include the likes of a topographical survey of the existing levels and a clear demonstration of the proposed site levels for the siting of the dwelling, the amenity/garden areas and any resultant impact in relation to the land nearest to boundary treatments. The detail is significantly lacking for this condition in their current form and is unacceptable. Therefore, this condition should not be discharged.

Condition 7

Before the commencement of the development hereby granted beyond oversight, full details of the means of surface water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained, to avoid pollution, and to prevent increased risk of flooding.

This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in Section 14 of the National Planning Policy Framework, 2021.

Whilst details have been provided, in that surface water would be discharged to soakaways, the viability of this proposal has not been evidenced. Consequently, it has not been demonstrated that the proposed surface water drainage strategy is satisfactory. The comments raised by the Internal drainage Board have highlighted these concerns further and as such, it is considered that the detail is not currently in a position to be discharged. Therefore, the condition should not be discharged.

Condition 8

Before the commencement of the development hereby granted, details of the means of foul water disposal shall be submitted to and approved in writing by the Local Planning Authority. The details so approved shall be implemented in full before the development hereby permitted is first brought into use.

Reason: To ensure that the site is adequately drained and to avoid pollution.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

The foul water is to be disposed to a main sewer, this is considered acceptable, and can therefore be discharged.

Condition 9

When application is made to the Local Planning Authority for approval of reserved matters, that application shall be accompanied by a scheme of landscaping and tree planting indicating (including

screening of bin collection points), inter alia, the number, species, heights on planting and positions of all trees in respect of the land to which that application relates, together with details of post-planting maintenance and such a scheme shall require the approval of the Local Planning Authority before any development is commenced. Such scheme as is approved by the Local Planning Authority 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.

Note: The applicant is recommended to employ a qualified and experienced landscape designer to produce a landscaping scheme for the development. The submitted landscaping proposals shall demonstrate that Biodiversity Net Gain will be achieved on site, using the Biodiversity Metric 3.1 (or any successor).

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 issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

This condition relates to the need to submit details within the Reserved Matters application. The Reserved Matters have been approved, with the decision including a condition that requires the landscaping details to be implemented as per the approved plan stated. There is no need for details to be submitted for this condition within a 'Submission of details' application. This has therefore been removed from the description and proposal.

Condition 10

Prior to its installation, details of the proposed boundary treatments, including a schedule of fencing levels, heights and 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 and retained thereafter.

Note: Where levels are raised above existing ground levels, the submission shall be supported by cross-sectional drawings showing the relationship with adjoining uses and buildings to enable the Local Planning Authority to be satisfied that sufficient mitigation measures will be in place.

Reason: In the interests of the character and appearance of the development and the amenity of the area in which it is set including the amenity of nearby occupiers.

This Condition is imposed in accordance with Policies 2 and 3 of the South East Lincolnshire Local Plan, 2019.

Whilst details have been provided, which include the siting of a 1.2m high fence and the retention of existing fencing and hedging, the detail cannot be assessed appropriately in its current form. This is to a large extent, because the site levels and the resultant impact on Finished Floor Levels have not been provided, which in turn, requires an assessment of the boundary treatment details. Therefore, the proposal currently lacks the required detail for this to be discharged. The submitted details are considered unacceptable and can therefore not be discharged.

Condition 11

Before the commencement of the development hereby permitted beyond oversite full details of ecological biodiversity measures to be installed in conjunction with the development shall be submitted to and approved in writing by the Local Planning Authority. The measures shall be constructed and retained in accordance with the details so approved.

Note: Development can incorporate a number of simple, low-cost measures to deliver biodiversity benefits and enhance priority habitats and species such as the use of bat and barn owl roost boxes and integrating nesting opportunities into buildings. The use of swift bricks on new developments would help minimise the decline in swifts, a priority species.

Reason: To ensure that the development is able to deliver a net gain in biodiversity. This Condition is imposed in accordance with Policy 28 of the South East Lincolnshire Local Plan, 2019 and national guidance contained in the National Planning Policy Framework, 2021.

The details provided are insufficient to be acceptable to discharge condition 11. The sole ecological 'benefit' illustrated is the inclusion of 'two swift bricks per dwelling'. The provision of two swift bricks is not sufficient to ensure the proposal complies with policy 28 and, it should also be noted that whilst the dwelling is slightly in excess of 5.0metres in height, swift bricks should typically be installed in groups of at least three and above a height of 5.0metres and as such, whilst further provision is required in any event, the proposed swift bricks are also insufficient in their own assessment. These details are therefore unacceptable and can therefore not be discharged.

Condition 12

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).

The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:

- i) A preliminary risk assessment (desk study) shall be carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). A full copy of the desk-top study and a non-technical summary shall be submitted to the LPA without delay upon completion.*
- ii) If identified as being required following the completion of the desk-top study, an exploratory site investigation shall be carried out to fully and effectively characterise the nature and extent of any land contamination and/or pollution of controlled waters. It shall specifically include a risk assessment that adopts the Source-Pathway-Receptor principle, in order that any potential risks are adequately assessed taking into account the sites existing status and proposed end use. A full copy of the site investigation and findings shall be forwarded to the LPA without delay upon completion.*
- iii) Thereafter, a written method statement detailing the remediation strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion shall be submitted to and approved in writing by the LPA. This shall include details of the proposed verification plan including compliance criteria and monitoring details.*

No deviation shall be made from this scheme without the express written agreement of the LPA. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspected contamination has been submitted to and agreed in writing by the LPA.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.

This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019.

Environmental Health have been consulted on this application and have confirmed that they are in general agreement with the findings and therefore have recommended the discharge of conditions 12 of H22-0017-23 in full.

Conclusion

To conclude, for the reasons outlined above, it is considered that the details submitted in relation to conditions 4 and 8 are acceptable and as such can be discharged. However, the details in relation to conditions 6, 7, 10, 11 and 12 lack adequate information and/or comprise unacceptable detail and as such it is the recommendation that these conditions are refused and not discharged.

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.