

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0674-24 **Applicant:** Mr & Mrs A Gratton
Proposal: Details of ecological biodiversity measures (Condition 4 of H23-0070-23)
Location: Adjacent To 51 Cobgate Whaplode Spalding
Terminal Date: 4th October 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

28 The Natural Environment

National Guidance

National Planning Policy Framework 2023

Section 15 - Conserving and enhancing the natural environment

Representations:

	Object	Support	No Obj.	Comments
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CASE OFFICER ASSESSMENT

Proposal

This is an application to discharge condition 4 of H23-0070-23 relating to biodiversity measures.

Site Description

The site is located off Cobgate and is sited towards the end of Whaplode settlement boundary. It comprises a parcel of land enclosed by a mixture of hedging, fencing and a brick wall. To the east of the site is a two storey dwelling and to the west is a newly constructed single storey bungalow. The site is currently mowed grassland.

History

H23-0676-24 - NMA. Residential development - Single Dwelling - Approved under H23-0070-23.
Amendment to facing brick type - Refused 15/08/24.

H23-0070-23 - Full. Residential development - Approved 16/03/23.

H23-0519-17 - Outline. Residential development - Approved 04/07/17.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

No responses received

Key Planning Considerations

Condition 4

Condition 4 of H23-0070-23 reads as follows:

"Before the commencement of the development hereby permitted beyond oversight 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."

Importantly, this condition was imposed prior to the requirement for 10% biodiversity net gain introduced by the Environment Act; and therefore, the proposal simply needs to display a gain in line with Policy 28 of the Local Plan.

It is proposed that a hedge would be planted along the southern border of the site (approximately 15 metres in length) alongside the already submitted scheme of planting approved under the host application (which included the planting of a tree and the addition of some low level boundary shrubs). This is to offset the loss of the existing leylandii hedge, the removal of which was approved under H23-0070-23. Two swift boxes and a bat brick are proposed. It is proposed that a "hedgehog highway" is made via holes in the proposed fences to allow free movement of animals.

While the loss of the mowed grassland would not be significantly detrimental to onsite biodiversity values, there would still be some loss. Likewise, the loss of an existing mature leylandii hedge would have a relatively significant impact given the size of the plot. While this is offset to a certain extent via the introduction of new hedging, as no details of the species mix has been provided, it is not immediately apparent that this would be a benefit. Given the difference in the scale of the removed and proposed hedge, it is likely a net loss would result.

While the addition of swift boxes is considered to be beneficial, it is not considered that two boxes would produce the required net gain; particularly given that best practice advises that boxes be installed in threes.

Therefore, it is not considered that adequate details have been provided to discharge the condition.

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.

Condition 4

It is not considered that adequate details have been submitted to ensure a net gain as required by Condition 4 of H23-0070-23. As such, it is considered that the condition cannot be discharged at this time.