DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H23-0943-20**	**Applicant:**	**Mr D Clark**
Proposal:	Proposed 3 bed chalet bungalow - approved under H23-0557-18. Removal of Conditions 7 & 8 relating to archaeological report		
Location:	Wayside Washway Road Saracens Head		
Terminal Date:	18th December 2020		

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
29	The Historic Environment
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2019

Sections 5, 12 and 14 of the National Planning Policy Framework (2019)

5 - Delivering a sufficient supply of homes
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
PARISH COUNCIL	0	0	1	0
WARD MEMBER	0	0	0	0
IAN MARSHMAN - HISTORIC ENVIRONMENT OFFICER	0	0	0	1

RESIDENTS	1	0	0	0

CASE OFFICER ASSESSMENT

PROPOSAL

This is a Section 73 Continuation application for a proposed 3 bed chalet bungalow - approved under H23-0557-18 at Wayside, Washway Road, Saracens Head. This application seeks the removal of Conditions 7 & 8 relating to the archaeological report. The reason this removal is sought is that construction occurred prior to submission of the requisite archaeological details. Now that construction of the dwelling is almost complete, archaeological trial pits cannot be dug.

SITE DESCRIPTION

The proposal site is within the defined settlement limits of Saracens Head. The surrounding area is characterised by dwellings of varying ages and designs. The site is in Environment Agency Flood Zone 1, and is in a "Danger for Some" hazard area, with a maximum predicted flood depth of 0.25 metres.

HISTORY

H23-1019-17

Outline - Residential development - Approved - 04 December 2017.

H23-0557-18

Full - Proposed 3 bedroom chalet bungalow - Approved - 24 July 2020.

CONSULTATION RESPONSES

LCC - Historic Environment Officer

This office recommended that archaeological conditions be required on this site in order to record potential archaeological remains that may be impacted by development. This was because the site lies within an area of known medieval salterns and the proposed development had the potential to disturb previously unknown archaeological finds and features relating to the medieval saltern site.

Unfortunately in this instance the developer has not adhered to the archaeological conditions, which were required in order to make the development acceptable in planning terms (NPPF 199). Initially a scheme of works was produced detailing how the archaeological remains were to be recorded as we recommended. This scheme of works was prepared and a copy was supplied by the developer's archaeologist to our office for informal approval. A copy of it was submitted to the local planning authority alongside other plans during the application process, and it became part of the approved plans for the development (Condition 2), with Condition 7 requiring that notification to this department of the intention to start the archaeological work, and Condition 8 to require the final report to be approved, and the paper archive and any finds to be deposited with a museum.

However, the developer then breached their conditions by beginning the groundworks and proceeding to fully complete the new dwelling without providing due notification, or of carrying out the archaeological work they had agreed with the local planning authority in order to secure planning permission. The developer's archaeologist was also not notified of the works starting, nor was he on site to monitor the groundworks. No explanation has been provided by the developer as to how or why this situation occurred.

In this instance there is no scope to carry out any additional archaeological investigations within the plot as there is very little undeveloped space within which an trench could be placed in order to

evaluate what, if any, remains may have been destroyed without record. As the development has been completed it would also not be proportionate to require the foundations to be removed so that the area affected could be investigated. There is therefore no longer any way for Condition 2, or Condition 7 and 8 to be complied with as the archaeological work cannot be carried out retrospectively"

Whaplode Parish Council

Support.

Member of the public

If these conditions are removed then it gives the green light for other applicants to do the same.

Important archaeological finds could be missed in the future.

PLANNING CONSIDERATIONS

Impact of removal of conditions 7 & 8 of H23-0557-18

The applicant / agent has not provided an explanation as to why these conditions were breached, so no assumptions will be made as to why this occurred. The applicant wishes for these conditions to be be removed as their inclusion is preventing sale of the property.

Other than requiring the removal of the property, there is nothing else that could be done to determine historical activity upon the site. Every application is judged on its own merits and it is not considered that applicants on other sites will not submit required details as a result of what has occurred on this site.

PLANING BALANCE

The dwelling has been built in accordance with approved plans, and to request the removal and subsequent reconstruction when evidence of archaeological finds may not be discovered is considered to be an overly strong position to take.

CONCLUSION

Conditions 7 and 8 of the application H23-0557-18 should be removed and this application is recommended for approval.

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.