DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H23-0972-23**	**Applicant:**	**RTW Construction & Development**
Proposal:	Details of design & location of all lighting to be provided to roads & footpaths, estate road and associated footways shall be laid out and constructed to finished surface levels, estate road phasing & completion plan, surface water drainage scheme & foul water disposal (Conditions 5, 7, 8, 10 & 11 of H23-0179-23)		
Location:	Land Off Cobgate Whaplode Spalding		
Terminal Date:	28th December 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
30	Pollution

National Guidance

National Planning Policy Framework 2023

Section 2 - Achieving sustainable development
Section 4 - Decision-Making
Section 5 - Delivering a sufficient supply of homes
Section 9 - Promoting sustainable transport
Section 12 - Achieving well-designed places
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a discharge of condition application, seeking the discharge of conditions relating to planning permission H23-0179-23. Details of design & location of all lighting to be provided to roads & footpaths, estate road and associated footways shall be laid out and constructed to finished surface levels, estate road phasing & completion plan, surface water drainage scheme & foul water disposal (Conditions 5, 7, 8, 10 & 11 of H23-0179-23)

Site Description

The application site is approximately 2.4 ha of agricultural land, located on the south-western periphery of Whaplode, which is a minor service centre. The northern and western boundaries are defined by watercourses controlled by South Holland Internal Drainage Board. Properties off Abbots Gardens are situated to the east and frontage residential development is situated on the opposite side of Cobgate.

The site adjoins Whaplode Development Boundary as defined in the South Holland Local Plan, 2006 and South East Lincolnshire Local Plan 2011-2036 (Publication Version - March 2017).

Planning permission was achieved for the erection of 28 bungalows under H23-0714-18 and approved plans were subsequently amended under H23-0179-23 which was a section 73 application.

History

H23-0714-18 - Proposed Residential Development of 28 Bungalows including estate roads, public open space and landscaping. Approved 06-03-19

H23-0179-23 - Proposed residential Development of 28 bungalows including estate roads, public open space and landscaping - approved under H23-0714-18 - Modification of Condition 2 to allow amendments to previously approved plans. Approved 05-10-23

Consultation Responses

South Holland IDB
The site is within the Internal Drainage District (IDD) of the South Holland Internal Drainage Board (IDB) and therefore the Board's Byelaws apply. Whilst the Board's regulatory process (as set out under the Land Drainage Act 1991 and the Board's Byelaws) is separate from planning, the ability to implement a planning permission may be dependent on the granting of any required Land Drainage Consents.

The Board's Officers have reviewed the documents submitted in support of the above planning application. Officers have noted works which require Land Drainage Consent from the Board as outlined in the table below and detailed overleaf. Please be aware of the potential for conflict between the planning process and the Board's regulatory regime.
I am pleased to note the applicant has approached the Board and made several applications for Land Drainage Consent (as detailed below).

If further Land Drainage Consent is required, the Board strongly recommends that this is sought from the Board prior to determination of this planning application. The Board will only consider the proposals in detail on receipt of an application for Land Drainage Consent. The annexe at the end of this letter outlines the Board's regulatory function and how to apply for Land Drainage Consent.

-Byelaw 3 (Surface Water) The applicant proposes to discharge surface water to a watercourse at a rate of 5 l/s. I can confirm that the applicant had approached the Board for Land Drainage Consent for the above. This was granted under the reference 23_21216_C (03/08/2023).

-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 note the presence of a watercourse which is not maintained by the Board (a riparian watercourse) adjacent to the eastern site boundary. As mentioned previously in my correspondence under the planning reference H23-0180-23 (our ref: 23_21484_P, dated: 16/05/2023), the Board has discussed the restoration of this watercourse further with the applicant. I am pleased to note that the applicant has agreed to re-establish this watercourse. In addition, the site is adjacent to two Board maintained watercourses, F31 Greens Drain to the northern boundary and F45 Millars Lane & Turnpike Drain to the west.

If at any time in the future the applicant's proposals change to include works to alter these watercourses, or if works are proposed to alter these watercourses at any time in the future, consent would be required under the Land Drainage Act 1991 (and byelaw 4).

-Byelaw 10 I can confirm the applicant had approached the Board to enable the following works within 9 metres of the aforementioned Board maintained watercourses: installation of drainage infrastructure, minimal land raising at the turning head adjacent to F45 Millars Lane & Turnpike Drain and an access culvert reconnecting the riparian watercourse to F31 Greens Drain, thus ensuring the Board's continued access and increasing flood storage capacity. This was consented by the Board subject to condition compliance under the references 23_21199_C & 23_21918_C.

Highways & Suds Support

No objection: The details of design & location of all lighting to be provided to roads & footpaths, estate road and associated footways shall be laid out and constructed to finished surface levels, estate road phasing & completion plan, surface water drainage scheme & foul water disposal (Conditions 5, 7, 8, 10 & 11 of H23-0179-23) are acceptable in accordance with approved drawings and details submitted with this application.

Planning Considerations

This section expands upon the condition requirement and details submitted in the support of discharge as well as consultee responses. The conditions are:
-Conditions 5 - Lighting
-Condition 7 - Estate Roads & Associated Footways
-Condition 8 - Phasing Completion Plan
-Condition 10 - Surface Water Drainage Strategy
-Condition 11 - Foul Water Disposal

Conditions 5 - Lighting

Condition 5 was attached to planning permission H23-0179-23 in the interests of the visual amenity of the overall development, to prevent light pollution and to ensure that the development is adequately lit. The condition required:

Before the commencement of the development hereby permitted beyond oversite, the detailed design and location of all lighting to be provided to roads and footpaths within the development shall be submitted to and approved in writing by the Local Planning Authority and all lighting utilised in the development shall conform to the details so approved.

The layout plans provided show the agreed scheme under S38, the location of lighting across the scheme is demonstrated and supported with a street lighting key. The highway Authority have made comment and stated that they have no objections to the scheme of lighting proposed. The lighting scheme would complement the character of the scheme, limiting light pollution to residents whilst ensuring that the development is adequately lit.

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

Condition 7 - Estate Roads & Associated Footways

Condition 7 was attached to planning permission H23-0179-23 in the interests of safety, to avoid the creation of pedestrian trip hazards within the public highway from surfacing materials, manholes and gullies that may otherwise remain for an extended period at dissimilar, interim construction levels. The condition required:

Before any dwelling is occupied, all of that part of the estate road and associated footways that forms the junction with the main road and which will be constructed within the limits of the existing highway, shall be laid out and constructed to finished surface levels in accordance with details to be submitted and approved by the local planning authority.

The estate roads and associated footways are shown on the S38 layout plans. The highway Authority has no objection to the discharge of this condition subject to compliance with the S38 agreement.

This condition was imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019 and is hereby discharged.

Condition 8 - Phasing Completion Plan

Condition 8 was attached to planning permission H23-0179-23 to ensure that a safe and suitable standard of vehicular and pedestrian access is provided for residents throughout the construction period of the development. The condition required:

The permitted development shall be undertaken in accordance with an Estate Road Phasing and Completion Plan, which shall first be approved in writing by the Local Planning Authority. The Plan shall set out how the construction of the development will be phased and standards to which the estate roads on each phase will be completed during the construction period of the development.

The S38 Layout Plans show how the estate roads are phased over 3 steps. These plans have been submitted and received by the Highway Authority who have no objections.

This condition was imposed in accordance with Policy 2 of the South East Lincolnshire Local Plan, 2019 and is hereby discharged.

Condition 10 - Surface Water Drainage Strategy

Condition 10 was attached to planning permission H23-0179-23 to ensure that the permitted development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, the permitted development. The condition required:

The permitted development shall be undertaken in accordance with a surface water drainage scheme which shall first have been approved in writing by the Local Planning Authority.

The scheme shall:
- be based on sustainable drainage principles and an assessment of the hydrological and hydrogeological context of the development;
- provide details of how run-off will be safely conveyed and attenuated during storms up to and including the 1 in 100 year critical storm event, with an allowance for climate change, from all hard surfaced areas within the development into the existing local drainage infrastructure and watercourse system without exceeding the run-off rate for the undeveloped site;
- provide attenuation details and discharge rates which shall be restricted to 1.4 litres per second; - provide details of the timetable for and any phasing of implementation for the drainage scheme; and
- provide details of how the scheme shall be maintained and managed over the lifetime of the development, including any arrangements for adoption by any public body or Statutory Undertaker and any other arrangements required to secure the operation of the drainage system throughout its lifetime.

The Section 104 agreement plans show the layout, long sections, catchment areas, flood route plan and construction details. In terms of surface water disposal the IDB state "The applicant proposes to discharge surface water to a watercourse at a rate of 5 l/s. I can confirm that the applicant had approached the Board for Land Drainage Consent for the above. This was granted under the reference 23_21216_C (03/08/2023)". This is therefore considered acceptable.

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, 2023 and is hereby discharged.

Condition 11 - Foul Water Disposal

Condition 11 was attached to planning permission H23-0179-23 to ensure that the site is adequately drained and to avoid pollution. The condition required:

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 Section 104 agreement plans show the layout, long sections, catchment areas, flood route plan and construction details. In terms of surface water disposal the IDB state "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." Connection to the main sewer is covered by Water Industry Act 1991, this legislation ensures that an appropriate connection and flows are made. This is therefore considered acceptable.

This condition was imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019 and is hereby discharged.

Conclusion

Therefore conditions 5, 7, 8, 10 & 11 of planning permission H23-0179-23 are hereby 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.