

**[05]** Remove or Vary a condition

N/164/02337/23

**APPLICANT:** Christopher Heneage Farms,

**VALID:** 08/12/2023

**AGENT:** Lincs Design Consultancy Limited,

**PROPOSAL:** Section 73 application to vary condition no. 2 (approved plans), condition no. 3 (construction management plan), condition no. 4 (construction environmental management plan), condition no. 5 (tree protection), condition no. 6 (hard landscaping), condition no. 7 (landscaping & tree planting), condition no. 8 (archaeology), condition no. 12 (surface water drainage) and condition no. 17 (phasing) as imposed on planning permission reference N/164/00946/22 (for the change of use of land for recreational use as a cycle park, construction of associated cycle tracks/trails, erection of a building to be used as a visitor centre, provision of associated car parking and construction of a vehicular access).

**LOCATION:** LAND OFF, DONINGTON ROAD, SOUTH WILLINGHAM

## **1.0 REASONS FOR COMMITTEE CONSIDERATION**

1.1 The proposal is presented to the Planning Committee for consideration due to the significant number of objections and the recommendation to approve.

## **2.0 THE SITE AND SURROUNDINGS**

2.1 The site is located to the east of the village of South Willingham; defined as a Small Village in the East Lindsey Local Plan. It is located in Flood Zone 1 – an area of low flood risk and within the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). The site comprises an area of agricultural arable, grass fields and an area of woodland which is designated a Local Wildlife Site. It comprises 41.4 hectares in size of which 12 hectares is the woodland. The site is accessed from Donington Road to the south which runs in a south-west to north-east direction. The land rises from south to north and back down slightly before rising further north with undulating sections. The woodland is located to the north-west. The fields are separated by hedges and there is a mature hedge with trees alongside the roadside boundary. Part of the verge to the east side of the access is also designated as a Local Wildlife Site. There are several listed buildings and a conservation area in the village of South Willingham. There are several ancient monuments to the north and east.

2.2 The agricultural land use classification for the site is 'good to moderate'. In Natural England's National Character Area (NCA), the site falls within the Lincolnshire Wolds character area. It describes this area as: "*..... a long, narrow band of rolling agricultural land dominated by a west-facing chalk escarpment approximately 50 m high. The area is characterised by a range of*

*varied yet unified features including open, arable plateau hill tops, chalk escarpments, deep dry valleys with sinuous beech woods and isolated ash trees punctuating the skyline. The area is sparsely settled with many villages hidden within the folds of the landscape and modest country houses and farmsteads. The landscape of the Wolds is strongly influenced by the underlying geology and the later glacial action that reshaped it. The solid geology is largely made up of a sequence of sandstones, clays, sandy limestones, ironstones and chalk deposited between 155 and 95 million years ago during the late Jurassic and Cretaceous periods. The chalk is capped in places by glacial deposits, while glacial meltwater channels have carved away parts of the Wolds to leave steep valleys. To the south-east, the overlying glacial till creates a rounded edge to the Wolds, and towards the southern end the chalk cap has been removed to reveal the Lower Cretaceous sands, clays and ironstones which form a series of low hills with gravel terraces. A variety of local materials, some of which are used as building material, are found across the area including sandy limestone, sandstone, ironstone and chalk, with striking red chalk being notable. Woodland cover is generally sparse, but the trees and woods remain an important component of the landscape. The open skies and long views add to the character, creating an area recognised as a place of tranquillity and inspiration. Sixty-two per cent of the area lies within the nationally protected landscape of the Lincolnshire Wolds Area of Outstanding Natural Beauty, which was designated in 1973 to conserve and enhance the natural beauty, outstanding views and tranquillity.”*

- 2.3 The area is similarly described in the East Midlands Regional Landscape Character Assessment. In the Lincolnshire Historic Landscape Characterisation it is defined as being in Character Zone WOL4 – The Dry Valleys within The Wolds Character Area. East Lindsey’s Landscape Character Assessment G: Wolds Farmland – G3 Hainton to Toynton All Saints,

### **3.0 DESCRIPTION OF THE PROPOSAL**

- 3.1 This is a section 73 application to vary condition no. 2 (approved plans), condition no. 3 (construction management plan), condition no. 4 (construction environmental management plan), condition no. 5 (tree protection), condition no. 6 (hard landscaping), condition no. 7 (landscaping & tree planting), condition no. 8 (archaeology), condition no. 12 (surface water drainage) and condition no. 17 (phasing) as previously imposed on planning permission reference N/164/00946/22. That permission is for the change of use of land for recreational use as a cycle park, construction of associated cycle tracks/trails, erection of a building to be used as a visitor centre, provision of associated car parking and construction of a vehicular access.
- 3.2 The proposal seeks to discharge and vary several conditions to

allow a different phasing of the development:

Condition no. 2 lists the approved plans. As a result of the proposed changes to the following conditions the list of plans would need to be updated.

Condition no. 3 requires the submission of a Construction Management Plan and Method Statement in order to control the method of construction which shall indicate measures to mitigate against traffic generation, drainage, and other amenity issues such as noise and dust for the site during the construction stage of the proposed development. The Construction Management Plan and Method Statement have been submitted as part of this application and it is now proposed that the condition be amended to ensure that the development proceeds in accordance with the submitted Plan and Method Statement.

Condition no. 4 requires the submission of a Construction Environmental Management Plan in order to mitigate the impact of the development on ecological and protected species at the site during the construction stage of the proposed development. The Construction Environmental Management Plan has been submitted as part of this application and it is now proposed that the condition be amended to ensure that the development proceeds in accordance with the submitted Plan.

Condition no. 5 requires the submission of a Tree Protection Plan and Arboricultural Method Statement in order to protect and mitigate the impact of the development on the trees on site during the construction stage of the proposed development. The Plan and Method Statement have been submitted as part of this application and it is now proposed that the condition be amended to ensure that the development proceeds in accordance with those details.

Condition no. 6 requires the submission of the hard surface areas. Details have been submitted as part of this application for Phases 1 and 2 and it is now proposed that the condition be amended to ensure that Phases 1 and 2 proceed in accordance with those details with details to be submitted for Phases 3 and 4.

Condition no. 7 requires details of the landscaping of the site. Details have been submitted as part of this application for Phases 1 and 2 and it is now proposed that the condition be amended to ensure that Phases 1 and 2 proceed in accordance with those details with details to be submitted for Phases 3 and 4.

Condition no. 8 requires the submission of a written scheme of archaeological investigation (WSI). This has been submitted and it is now proposed that the development proceed in accordance with the WSI.

Condition no. 12 requires the details of surface water drainage to

be submitted. It is proposed that these details are submitted prior to the commencement of Phase 4.

Condition no. 17 relates to the phasing of the development, the agent has stated that: "Due to significant change in economic climate over the last 18 months, the development of the cycle park requires an alternative approach to phasing." This would allow the site to operate and generate an income prior to all phases being completed.

Approved Phasing:

Phase 1 - Enabling works: access, parking, tree planting, perimeter loop trail and trails in northern fields.

Phase 2 - Trails in south field, pump track, learn to ride track.

Phase 3 - Visitor Centre.

Phase 4 - Accessible trails in south-east field.

Now Proposed:

Phase 1 - Access road, parking, off site passing places.

Phase 2 - Perimeter loop trail, trails in the northern fields, tree planting and landscaping thereto.

Phase 3 - Trails in the south field, tree planting and landscaping thereto.

Phase 4 - Pump track, learn to ride track, visitor centre. Accessible trails in south-east field and landscaping thereto.

## **4.0 CONSULTATION**

- 4.1 Set out below are the consultation responses that have been received on this application. These responses may be summarised and full copies are available for inspection separately. Some of the comments made may not constitute material planning considerations.

### **Publicity**

- 4.2 The application has been advertised by means of a press notice and site notice and neighbours have been notified in writing.

### **Consultees**

- 4.3 SOUTH WILLINGHAM PARISH COUNCIL - The parish council is concerned about the possible negative outcomes resulting from the relaxation of requirements from the original planning scheme previously granted in order to allow ad hoc events to be staged on a partially-developed site including:
- scar on the landscape of a 200-space car park which could be the legacy of a failed development;
  - a partially developed site lacking fencing or security;
  - a 200-space car park open to abuse by unwelcome users;
  - lack of signage on the approaches to attempt to get traffic to avoid cutting through South Willingham village;
  - destruction of habitat;
  - lack of screening and landscaping;

- compromise to biodiversity;
- legacy of unwanted passing places on historic drovers' verges with attendant signage.

The parish council considers that the number and extent of the variances should warrant a new application. The promised benefits of the original proposal that ELDC would surely have been persuaded by, including:

- creation of jobs;
- bike repair shop;
- café;
- educational facilities;
- facilities for disabled groups,

have all been lost in this latest amended application. The parish council does not see any future-proofing of the development of the car park in relation to electric vehicle points. The applicant cites the economic climate as the need to amend his plans. It would seem that the current economic climate is not much more favourable. Any doubt that this development will be a success raises the issue of what is left in the landscape when the site is abandoned, or indeed, what it might then be able to be used for. The parish council feels that the residents of South Willingham are justified in their concern about the future of this site and therefore OBJECT to the amendments.

- 4.4 EAST AND WEST BARKWITH PARISH COUNCIL - Support.
- 4.5 LCC HIGHWAYS AND LEAD LOCAL FLOOD AUTHORITY - No objections.
- 4.6 ENVIRONMENTAL SERVICES (Environmental Protection) - Not received at the time of preparing this report.
- 4.7 ENVIRONMENTAL SERVICES (Drainage) - Not received at the time of preparing this report.
- 4.8 ENVIRONMENTAL SERVICES (Contamination) - Not received at the time of preparing this report.
- 4.9 HISTORIC ENGLAND - Seek the advice of your specialist conservation and archaeological advisors.
- 4.10 HERITAGE LINCOLNSHIRE - No comments.
- 4.11 HERITAGE LINCOLNSHIRE (ARCHAEOLOGY) - We do not agree that the wording of condition 8 should be amended as proposed, as the submitted WSI has not been agreed.  
Further comments received - We are now able to approve the WSI.
- 4.12 SPORT ENGLAND - No comments.

- 4.13 BRITISH HORSE SOCIETY - Object. Impact from increase in traffic on horse users, cyclist and walkers.
- 4.14 LINCOLNSHIRE WOLDS COUNTRYSIDE SERVICES - I can confirm that our previous comments still apply and that we maintain an Objection to this development which we believe will result, on balance, to significant harm to the nationally protected Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB). As detailed previously, there are alternative sites that could have been more fully explored to help minimise the impacts upon the primary purpose of the designation and delivered wider public gain, whilst also avoiding the need to construct a completely new standalone building in the open countryside. We continue to recommend that the development in its totality be viewed and managed as Major Development through the planning process.
- 4.15 NATURAL ENGLAND - Previous objection still stands (Consider that this proposed development scheme would have a significant impact on the purpose of designation of the Lincolnshire Wolds Area of Outstanding Natural Beauty (AONB)).
- 4.16 ELDC STREET SCENE (ARBORICULTURAL OFFICER) - I am satisfied that the Arboricultural Method Statement includes adequate precautions to protect trees, and by implementing its requirements and recommendations the development proposal will have no significant adverse impact on the contribution of trees to the biodiversity, amenity or character of the local landscape.
- 4.17 LINCOLNSHIRE POLICE - Not received at the time of preparing this report.
- 4.18 LINCOLNSHIRE WILDLIFE TRUST - Not received at the time of preparing this report.
- 4.19 SPORT ENGLAND - Not received at the time of preparing this report.

### **Neighbours**

- 4.20 69 representations received on the grounds of:
- Too many changes to be a S73 application;
  - Could end up half built eye sore;
  - Some changes unspecified;
  - Bike park events with no facilities shouldn't go ahead;
  - Impact on character of the AONB;
  - Wrong place in AONB for such development;
  - Impact on wildlife;
  - Impact on road verges;
  - Archaeological assessment has not been agreed with Heritage Lincolnshire;
  - Landscaping should be completed first to help screen the development;

- CMP does not take account of horse riders or cyclists;
- Flags, banners or promotional materials should not be allowed;
- Signage should be undertaken first to avoid traffic going through the village of South Willingham;
- Travellers could use the site;
- Lack of detail of passing places;
- Infrastructure needs to be in place before events are held;
- What happens to car park if venture fails?;
- Promised advantages of tourism draw, facilities and jobs no longer proposed;
- Need for electric vehicle charging points;
- No information on position of passing places;
- A revised duty for relevant authorities to 'seek to further' the purpose (to conserve and enhance natural beauty) of Areas of Outstanding Natural Beauty (rebranded as National Landscapes) came into force on 26th December 2023. This new duty will mark a further step-change and provide an opportunity for bringing together all organisations to work positively to conserve and enhance the natural beauty of the Lincolnshire Wolds.

4.21 The Ward Councillor is aware of the application via the Weekly List and has made the following comments: "I objected to and called the original application in on behalf of the S. Willingham Community as this development has clear negative implication for the S. Willingham and neighbouring communities which remain unmitigated. Indeed this application to vary conditions simply exacerbates these negative impacts. These relate to increased levels of traffic, detrimental visual aspects, increased environmental pollution and noise."

4.22 County Councillor Bradwell has made comments objecting to the application on the grounds that only the car park and passing places will be provided and it is unclear what the site will be used for and increase in traffic along Donington Road which is narrow with 100 vehicles leaving the site will cause problems.

## **5.0 RELEVANT SITE HISTORY**

5.1 N/164/02207/21 - Environmental Impact Assessment (E.C.C. Directive 85/337/E.E.C. as amended by Council Directive 97/11EC) for a screening opinion with respect to change of use of land to recreational use to form a cycle park, construction of associated cycle tracks/trails, access, internal access road, car parking and erection of a visitor centre.

5.2 N/164/00946/22 - Planning Permission - Change of use of land for recreational use as a cycle park, construction of associated cycle tracks/trails, erection of a building to be used as a visitor centre, provision of associated car parking and construction of a vehicular access.

## **6.0 PLANNING POLICY & BACKGROUND DOCUMENTS**

- 6.1 Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications are determined in accordance with the development plan unless material considerations indicate otherwise. The Development Plan comprises of the East Lindsey Local Plan (adopted 2018), including the Core Strategy and the Settlement Proposals Development Plan Document; and any made Neighbourhood Plans. The Government's National Planning Policy Framework (NPPF) is a material consideration.

#### **East Lindsey Local Plan**

SP1 – A Sustainable Pattern of Places

SP2 – Sustain able Development

SP10 – Design

SP11 – Historic Environment

SP15 – Widening the Inland Tourism and Leisure Economy

SP16 – Inland Flood Risk

SP22 – Transport and Accessibility

SP23 – Landscape

SP24 – Biodiversity and Geodiversity

SP26 – Open Space, Sport and Recreation

#### **National Planning Policy Framework**

##### **Background Documents**

Planning Practice Guidance

The Lincolnshire Wolds Area of Outstanding Natural Beauty Management Plan 2018-2023

National agricultural land classification map

Natural England's National Character Area (NCA)

East Midlands Regional Landscape Character Assessment

Manual for Streets 2

Countryside and Rights of Way Act

## **7.0 OFFICER ASSESSMENT OF THE PROPOSAL**

### **Main Planning Issues**

- 7.1 The main planning issues in this case are considered to be:

- **Type of Application.**
- **Conditions to Varied.**

#### **Type of Application.**

- 7.2 This is an application made under Section 73 of the Town and Country Planning Act 1990 to vary or remove conditions associated with a planning permission. Section 73 of the Town and Country Planning Act 1990 relates to applications to develop land without compliance with conditions previously attached. It states in part that:

“(2) On such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted, and –



(a) If they decide that planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted, or that it should be granted unconditionally, they shall grant planning permission accordingly, and  
(b) If they decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they shall refuse the application."

- 7.3 National Planning Policy Guidance advises: "Permission granted under Section 73 takes effect as a new, independent permission to carry out the same development as previously permitted subject to new or amended conditions. The new permission sits alongside the original permission, which remains intact and unamended. It is open to the applicant to decide whether to implement the new permission or the one originally granted. A decision notice describing the new permission should clearly express that it is made under section 73. It should set out all of the conditions imposed on the new permission, and, for the purpose of clarity restate the conditions imposed on earlier permissions that continue to have effect."
- 7.4 The legislation makes it clear that in considering such an application a local planning authority may only consider the "question of the conditions". However, in terms of decision-making, a Section 73 application should be treated just like any other application, and due regard paid to the development plan and other material considerations. In granting permission under Section 73 the local planning authority may also impose new conditions, provided the conditions do not materially alter the development that was subject to the original permission.
- 7.5 The National Planning Practice Guidance goes to state: "There is no statutory limit on the degree of change permissible to conditions under Section 73 , but the change must only relate to conditions and not to the operative part of the permission."
- 7.6 National Planning Practice Guidance and the NPPF also advise on imposition of conditions on a planning approval and sets out six tests that need to be met before a condition can be properly imposed. These tests advise that conditions should be necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. The on-line Planning Practice Guidance provides an explanation as to what is required to satisfy each of these six tests. Conditions should meet all six tests to be acceptable.

#### **Conditions to be Varied.**

- 7.7 As set out above for this type of application the principle of the development in this location is not being re-considered as this already has planning permission and has been established. That permission remains extant and can still be implemented. Those objection comments relating the principle of the development and other matters not relevant to the changes to the conditions being proposed are therefore noted, but not considered relevant in this

case.

7.8 The reasoning behind the proposed changes to the conditions on the original permission is to effectively discharge and vary several of the conditions to allow a different phasing of the development and allow parts of the site to operate and generate an income prior to all phases being completed. Taking each condition in turn.

7.9 Condition no. 2 lists the approved plans. As a result of the proposed changes to the following conditions the plan numbers will need to be updated to reflect the new plans submitted as part of this application.

7.10 Condition no. 3 states:

*No development shall take place until a Construction Management Plan and Method Statement has been submitted to and approved in writing by the Local Planning Authority which shall indicate measures to mitigate against traffic generation and drainage of the site during the construction stage of the proposed development.*

*The Construction Management Plan and Method Statement shall include;*

- phasing of the development to include access construction;*
- the parking of vehicles of site operatives and visitors;*
- loading and unloading of plant and materials;*
- storage of plant and materials used in constructing the development;*
- wheel washing facilities;*
- the routes of construction traffic to and from the site including any off site routes for the disposal of excavated material and;*
- strategy stating how surface water run off on and from the development will be managed during construction and protection measures for any sustainable drainage features. This should include drawings showing how the drainage systems (permanent or temporary) connect to an outfall (temporary or permanent) during construction;*
- the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;*
- measures to control the emission of dust and dirt during construction;*
- details of noise reduction measures; and*
- the hours during which machinery may be operated, vehicles may enter and leave, and works may be carried out on the site.*

*The Construction Management Plan and Method Statement shall be strictly adhered to throughout the construction period.*

*Reason: 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 site during construction, to ensure that suitable traffic routes are agreed in the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraphs 167 and 130 of the National Planning Policy Framework.*

The Construction Management Plan and Method Statement have been submitted as part of this application and it is now proposed that the condition be amended to ensure that the development for each phase proceeds in accordance with the submitted Plan and Method Statement. The plan itself outlines where on site storage, parking and delivery areas will be during each phase and the Method Statement includes details to satisfactorily cover the points set out in the condition. LCC Highways Authority have not raised any objection to the submitted details from a highways safety or capacity point of view. It is therefore considered that the condition can reasonably be varied to require that the development proceeds in accordance with these submitted details.

- 7.11 Condition no. 4 requires the submission of a Construction Environmental Management Plan as set out below:

*Prior to the commencement of the development hereby permitted a Construction Environmental Management Plan, which shall follow the principles set out in 4.16 of the Preliminary Ecological Appraisal and Bio-diversity Net Gain Calculations report dated April 2002, shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be completed in strict accordance with the Construction Environmental Management Plan.*

*Reason: To ensure conservation of local biodiversity in accordance with Section 15 of the National Planning Policy Framework.*

In 4.16 of the Preliminary Ecological Appraisal and Bio-diversity Net Gain Calculations report it sets out impact and avoidance measures to be adopted during the construction phase which should form the Construction Environmental Management Plan. The submitted plan has been undertaken by a suitably qualified ecologist. The plan sets out measures to avoid, minimise and mitigate against any construction impacts towards the environment and biodiversity. It includes an iterative process consulting with an qualified ecologist during each phases of the development to ensure that appropriate construction methodology and specifications are adhered to including ecological supervision on site. It is considered that the plan meets the objectives set out in the original condition and that the condition can reasonably be varied to state that the development proceeds in accordance with these submitted details.

- 7.12 Condition no. 5 requires the submission of a Tree Protection Plan and Arboricultural Method Statement as set out below:

*Prior to the commencement of the development hereby permitted a Tree Protection Plan and Arboricultural Method Statement shall be submitted to and approved in writing by the Local Planning Authority. The development shall proceed only in accordance with the details in the approved Tree Protection Plan and Arboricultural*

*Method Statement.*

*Reason: To define the methodology for implementing development which has the potential to result in the loss of, or damage to, retained trees and the landscape. This condition is in accordance with the requirements of SP23, SP24 and SP25 of the East Lindsey Local Plan.*

The Arboricultural Method Statement has been submitted and it provides information on how trees will be protected and managed during the development. It includes protection measures for the existing trees which are set out in the statement and shown on a plan. The Council's Arboricultural Officer has been consulted and is satisfied with the measures set out in the statement. It is considered that the condition should be varied to state that the development proceeds in accordance with these submitted details.

- 7.13 Condition no. 6 requires the submission of the materials for the hard surface areas as set below:

*Notwithstanding the submitted details prior to the commencement of the development hereby permitted a schedule of all hard surfaced areas including all tracks and trails shall be submitted to and approved in writing by the Local Planning Authority. Prior to the commencement of the visitor centre building hereby permitted details of all external materials, including samples where requested, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.*

*Reason: In the interests of the character and appearance of the development and the visual amenity of the area in which it is set. This condition is imposed in accordance with SP10 and SP23 of the East Lindsey Local Plan.*

A plan has been submitted which shows these details for Phases 1 and 2. They includes a tarmac access; road planning's for the internal access road and car park and Hoggin path. The proposed trails for Phases 1 and 2 will be constructed from 100mm compacted depth of 75mm to dust stone. This will be covered with 50mm compacted depth of 40mm to dust stone prior to sealing the track line with 30mm compact depth of 4mm to dust stone. It is considered that these materials would be acceptable and would not result in a significant harmful visual impact on the rural character of the area or the setting of the AONB and the condition should be varied for Phases 1 and 2 to be accordance with these details and further details to be submitted for Phases 3 and 4.

- 7.14 Condition no. 7 requires details of the landscaping of the site as set out below:

*Prior to the commencement of the development hereby permitted, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance and management. The scheme shall follow the principles set in the Preliminary Ecological Appraisal and Biodiversity Net Gain Calculations report dated April 2022. Such scheme as is approved by the Local Planning Authority shall be carried out in accordance with phasing strategy to be agreed in writing by the Local Planning Authority. All trees, plants, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for a minimum 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.*

*Reason: To ensure that appropriate landscaping is provided to integrate the site into the local area. This condition is imposed in accordance with SP10, SP23 and SP24 of the East Lindsey Local Plan.*

Details have been submitted to show the landscaping for Phases 1 and 2. Phase 1 includes the access road, parking and off site passing places no additional landscaping is proposed for this phase. Phase 2 includes the perimeter loop trail and trails in the wood and northern fields. Native hedging is proposed for the eastern and southern boundaries of the northern field and scrub mix planting in between the trails with the remainder of the field being modified grassland to be planted with a meadow wild flower mix. Existing hedging is shown to be retained and enhanced with additional shrub and tree species. Existing trees are to be retained. This follows the principles set out in the Preliminary Ecological Appraisal and Biodiversity Net Gain Calculations report dated April 2022 submitted with the previous application. It is considered that this proposed landscaping would be acceptable for these first two phases and the development would not result in a significant harmful visual impact on the rural character of the area or the setting of the AONB and the landscaping would provide a visual and ecological enhancement. The condition should be varied for Phases 1 and 2 to be accordance with these details and further details to be submitted for Phases 3 and 4.

- 7.15 Condition no. 8 requires the submission of a written scheme of archaeological investigation (WSI) as set below:

*No development shall take place until a written scheme of archaeological investigation has been submitted to and approved by the Local Planning Authority. This scheme should include the following:*

- 1. An assessment of significance and proposed mitigation strategy (i.e. preservation by record, preservation in situ or a mix of these elements).*
- 2. A methodology and timetable of site investigation and recording.*

3. *Provision for site analysis.*
4. *Provision for publication and dissemination of analysis and records.*
5. *Provision for archive deposition.*
6. *Nomination of a competent person/organisation to undertake the work.*

*The scheme of archaeological investigation must only be undertaken in accordance with the approved details.*

*Reason: To ensure the preparation and implementation of an appropriate scheme of archaeological mitigation in accordance with paragraph 205 of the National Planning Policy Framework.*

The WSI has been submitted which sets out a method for the investigation and recording of any archaeology. Heritage Lincolnshire have agreed the amended WSI. It is proposed that this condition is removed, and the following condition no. 9 be amended to make reference to the development commencing in accordance with the approved WSI.

- 7.16 Condition no. 12 requires the details of surface water drainage to be submitted as set out below:

*The development hereby permitted 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 flood exceedance routing for storm event greater than 1 in 100 year;*
- *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 cycle park shall not be operational until the approved scheme has been completed or provided on the site in accordance with the approved phasing. The approved scheme shall be retained and maintained in full, in accordance with the approved details.*

*Reason: To ensure that the permitted development is adequately*

*drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the development in accordance with SP16 of the East Lindsey Local Plan.*

The hard surfaced areas to be constructed as part of Phases 1, 2 and 3 will be permeable and rainfall will simply drain through and off to the surrounding grass land. The works in Phase 4 will include the visitor centre building and impermeable areas so it is considered that it would be acceptable to vary the condition for the surface water details to be submitted prior to the commencement of Phase 4.

7.17 Condition no. 17 relates to the phasing of the development as set below:

*The development hereby permitted shall be carried out in accordance with the submitted phasing plan no. LDC3668-PL-06 received by the Local Planning Authority on 4th October 2022. The access, parking and landscaping as shown in Phase 1 shall be completed prior to moving on to the construction of the next phase.*

*Reason: To minimise the impact on the local environment and to allow landscaping to become established in the interest of the visual amenity of the area. This condition has been imposed in line with SP10 and SP23 of the East Lindsey Local Plan.*

The agent has stated that: "Due to significant changes in economic climate over the last 18 months, the development of the cycle park requires an alternative approach to phasing." This would allow the site to operate and generate an income before being fully completed.

Approved Phasing:

Phase 1 - Enabling works: access, parking, tree planting, perimeter loop trail and trails in northern fields.

Phase 2 - Trails in south field, pump track, learn to ride track.

Phase 3 - Visitor Centre.

Phase 4 - Accessible trails in south-east field.

Now Proposed:

Phase 1 - Access road, parking, off site passing places.

Phase 2 - Perimeter loop trail, trails in the northern fields, tree planting and landscaping thereto.

Phase 3 - Trails in the south field, tree planting and landscaping thereto.

Phase 4 - Pump track, learn to ride track, visitor centre. Accessible trails in south-east field and landscaping thereto.

The main change to the phasing is the visitor centre, pump and learn to tracks being moved in to the last phase along with the associated landscaping for that phase. The end development remains as originally approved.

7.18 Concerns have been raised as set out above. It has been suggested that there are too many changes being proposed for this application to be considered under the Section 73 process. The main change being proposed relates to the order of the phasing of the development but the end development remains as originally approved. There is no evidence that the development will end up only partially complete and won't be fully delivered. The passing places are still required to be provided prior to the cycle park being operational and details of their position and construction will need to be agreed with LCC Highways Authority. With regard to concerns about the lack of landscaping, it is still proposed that the landscaping will take place as each phase is developed. Other objections relate to the principle of the development in this location however this has already been established by the original approval. Concern has also been raised regarding the need for accessible car parking spaces and electric vehicle charging points. These are a requirement of Document S under Building Regulations and will come into force once building regulations are required for the visitor centre building. The agent has confirmed; *"that the applicant is fully committed to providing an accessible facility for all and therefore the required number of accessible parking spaces will be provided when the car park is constructed. In terms of provision of EV charging and the phase/stage when this will be installed, this will be dependent on bringing sufficient electric supply to the site which is an ongoing discussion. At the very latest, EV charging would be provided prior to building control sign-off of the visitor centre."*

7.19 As set out on the Lincolnshire Wolds Countryside Services website there is a strengthened duty of regard which came into force in December 2023 which seeks to further the purpose of AONB's. However, the previous approval carries weight and is still capable of being implemented. It is not considered that the proposed changes to the conditions would result in any significant harmful impact on the character of the area or the rural setting of the AONB.

## **8.0 CONCLUSION**

8.1 In considering the changes to the conditions proposed and the overall development, it is still considered that when weighed against the benefits in terms of economic, tourism, employment and health to the wider district, the proposal would be acceptable. The conditions still manage or control detailed considerations around materials, lighting and landscaping. All other conditions not set out above will be repeated. It is accepted that there would still be some impact on the amenity of the neighbours but conditions to control hours of use and event management are still included and would help mitigate this so would not be significantly harmful. Conditions also still ensure that the drainage of the site is managed and protected species are not harmed.



8.2 This conclusion has been arrived at having taken into account all other relevant material considerations, none of which outweigh the reasons for the officer recommendation made below.

## 10.0 OFFICER RECOMMENDATION

**RECOMMENDATION:** Approve

subject to the following conditions:

1. Full Permission

The development hereby permitted must be begun not later than the expiration of 4th December 2026.

Reason: In order to comply with the requirements of Section 51 of the Planning and Compulsory Purchase Act 2004.

2 The development hereby permitted shall only be undertaken in accordance with the following approved plan number:

LDC3668-PL-06_C	Received by the LPA on 29/11/2023.
LDC3668-PL-07	Received by the LPA on 01/02/2024.
N0833 (08)001 Rev B	Received by the LPA on 29/11/2023.

The following approved plans under planning permission N/164/00946/22

LDC3668-PL-01	Received by the LPA on 13/05/2022.
LDC3668-PL-03	Received by the LPA on 13/05/2022.
LDC3668-PL-04_A	Received by the LPA on 04/10/2022.
LDC3668-PL-05_A	Received by the LPA on 04/10/2022.
22-002(07)001 Revision D3	Received by the LPA on 13/05/2022.
22-002(07)002 Revision D3	Received by the LPA on 13/05/2022.
22-002(07)003 Revision D3	Received by the LPA on 13/05/2022.
22-002(07)005 Revision D3	Received by the LPA on 13/05/2022.
22-002(07)010 Revision D4	Received by the LPA on 04/10/2022.
22-002(07)020 Revision D4	Received by the LPA on 04/10/2022.
22-002(09)002 Revision D0	Received by the LPA on 24/05/2022.
22-002(09)010 Revision D3	Received by the LPA on 13/05/2022.
22-002(09)020 Revision D3	Received by the LPA on 13/05/2022.

Reason: For the avoidance of doubt and the interests of proper planning.

3 The development hereby permitted shall proceed in accordance with the Construction Management Plan and Method Statement Version 3 received by the Local Planning Authority on 22nd February 2024 and the construction management drawing reference LDC3668\_PL\_07\_A1 received by the Local Planning Authority on 1st February, 2024. The measures set out Construction Management Plan and Method Statement and on the approved drawing shall be strictly adhered to throughout the construction period.

Reason: 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 site during construction, to ensure that suitable traffic routes are agreed in the interests of highway safety and the amenity of nearby residents. This condition is imposed in accordance with paragraphs 173 and 135 of the National Planning Policy Framework.

- 4 The development hereby permitted shall be undertaken in accordance with the measures and principles set out in the Construction Environment Management Plan, report reference SQ-1404 dated 17th November, 2023. The development shall be completed in strict accordance with this plan at all times.

Reason: To ensure conservation of local biodiversity in accordance with Section 15 of the National Planning Policy Framework.

- 5 The development hereby permitted shall be undertaken in accordance with the mitigation measures set out in the Tree Protection Plan and Arboricultural Method Statement, reference AWA5640 dated October 2023. The development shall proceed only in accordance with these details and tree protection measures shown on Appendix 5 the Tree Protection Plan.

Reason: To mitigate against the loss of, or damage to, retained trees and the landscape. This condition is in accordance with the requirements of SP23, SP24 and SP25 of the East Lindsey Local Plan.

- 6 The hard surface materials for Phases 1 and 2 of the development hereby permitted shall be in accordance with the details shown on drawing no. N0833 (08)001 Rev B received by the Local Planning Authority on 29th November, 2023. Prior to the commencement of Phases 3 or 4 a schedule of the of the hard surface materials including all tracks and trails for each of those phases shall be submitted to and approved in writing by the Local Planning Authority. Phases 3 and 4 shall be constructed in accordance with the details so agreed.

Reason: In the interests of the character and appearance of the development and the visual amenity of the area in which it is set. This condition is imposed in accordance with SP10 and SP23 of the East Lindsey Local Plan.

- 7 The landscaping for Phases 1 and 2 of the development hereby permitted shall be in accordance with the details shown on drawing no. N0833 (08)001 Rev B received by the Local Planning Authority on 29th November, 2023. The landscaping shall be undertaken within the first planting season following completion of Phase 2. Prior to the commencement of Phase 3 or 4, the approval of the Local Planning Authority is required to a scheme of landscaping and tree planting for the site indicating, inter alia, the number, species, heights on planting and positions of all the trees, together with details of post-planting maintenance and management. The scheme shall follow the principles set in the Preliminary Ecological Appraisal and Biodiversity Net Gain Calculations report dated April 2022. Such scheme as is approved by the Local Planning Authority shall be carried out in

accordance with phasing strategy to be agreed in writing by the Local Planning Authority. All trees, plants, shrubs and bushes shall be maintained by the owner or owners of the land on which they are situated for a minimum 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.

Reason: To ensure that appropriate landscaping is provided to integrate the site into the local area. This condition is imposed in accordance with SP10, SP23 and SP24 of the East Lindsey Local Plan.

- 8 The archaeological site work must be undertaken in strict accordance with the Written Scheme of Investigation Version 2 received by the Local Planning Authority 12th February, 2024. The applicant will notify the Local Planning Authority of the intention to commence at least fourteen days before the start of archaeological work for each phase in order to facilitate adequate monitoring arrangements. No variation shall take place without prior consent of the Local Planning Authority.

Reason: To ensure satisfactory arrangements are made for the recording of possible archaeological remains in accordance with paragraph 211 of the National Planning Policy Framework.

- 9 A report of the archaeologist's findings shall be submitted to the Local Planning Authority and the Historic Environment Record Officer at Lincolnshire County Council within 3 months of the works hereby given consent being commenced unless otherwise agreed in writing by the Local Planning Authority; and the condition shall not be discharged until the archive of all archaeological work undertaken hitherto has been deposited with the County Museum Service, or another public depository willing to receive it.

Reason: In order to ensure that satisfactory arrangements are made for the investigation, retrieval and recording of any possible archaeological remains on the site and in accordance with paragraph 211 of the National Planning Policy Framework.

- 10 Notwithstanding the submitted details the cycle tracks and trails shall be constructed within the parameters relating to position and heights above existing ground levels as set out in the details from Bike Track dated 14th March 2022 and received by the Local Planning Authority on 17th November, 2022 for planning permission reference N/164/00946/22.

Reason: In the interests of the character and appearance of the development and the visual amenity of the area in which it is set. This condition is imposed in accordance with SP10 and SP23 of the East Lindsey Local Plan.

- 11 Phase 4 of the development hereby permitted 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 flood exceedance routing for storm event greater than 1 in 100 year;
- 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.

Phase 4 of the cycle park shall not be operational until the approved scheme has been completed or provided on the site. The approved scheme shall be retained and maintained in full, in accordance with the approved details.

Reason: To ensure that the development is adequately drained without creating or increasing flood risk to land or property adjacent to, or downstream of, or upstream of, the development in accordance with SP16 of the East Lindsey Local Plan.

12 No special event shall take place at the development hereby permitted until an Event Management Plan has been submitted to and agreed in writing by the Local Planning Authority. The Event Management Plan shall include details of:

- any necessary traffic management, including any traffic regulation orders;
- areas of any additional overflow parking, which shall be provided on site;
- additional litter management arrangements;
- hours of operation;

All events shall be undertaken in accordance with Event Management Plan and the plan shall be monitored and up dated as when necessary in agreement with the Local Planning Authority. No more than 12 special events shall be held in a calendar year and no more than two a calendar month. The Council defines a special event as an event with more than 350 entrants/participants.

Reason: In the interests of highway safety, the amenity of nearby residents and protecting the nearby highway verges which are designated Local Wildlife sites. This condition is imposed in accordance with SP22 and SP24 and paragraph 135 of the National Planning Policy Framework.

- 13 No external lighting shall be installed on any part of the site or visitor building unless details of such lighting, including design, location, the intensity of illumination and fields of illumination, have been first submitted to, and approved in writing by, the Local Planning Authority. Any external lighting that is installed shall accord with the details so approved.

Reason: In the interests of the character and appearance of the development and the visual amenity of the area in which it is set and to protect the dark skies and wildlife. This condition is imposed in accordance SP10, SP23 and SP24 of the East Lindsey Local Plan.

- 14 The car park and access shall be completed in accordance with details shown drawing no. LDC3668-PL-05\_A received by the Planning Authority on 4th October 2022 for planning permission reference N/164/00946/22 and Lincolnshire County Council's specification that is current at the time of construction prior to the cycle park being operational and shall be thereafter so maintained.

Reason: In the interests of safety of the users of the public highway and the safety of the users of the site. This condition is imposed in accordance with SP22 of the East Lindsey Local Plan.

- 15 The cycle park hereby permitted shall not be operational before the works to improve the public highway by means of a scheme of passing places to the west of Donington Road have been certified complete by the Local Planning Authority.

Reason: To ensure the provision of safe and adequate means of access to the permitted development. This condition is imposed in accordance with SP22 of the East Lindsey Local Plan.

- 16 The development hereby permitted shall be carried out in accordance with the submitted phasing plan no. LDC3668-PL-06\_C received by the Local Planning Authority on 29th November 2023. The access and parking shown in Phase 1 shall be completed prior to moving on to the construction of the next phase.

Reason: To minimise the impact on the local environment and to allow landscaping to become established in the interest of the visual amenity of the area. This condition has been imposed in line with SP10 and SP23 of the East Lindsey Local Plan.

- 17 The measures set laid in the Travel Plan dated April 2022 for planning permission reference N/164/00946/22 shall be implemented once the cycle park is operational and shall remain in use at all times when the park is open.

Reason: To ensure that the need to travel will be minimised and the use of sustainable transport modes maximised. This condition is imposed in accordance with SP22 of the East Lindsey Local Plan.

- 18 Only pedal cycles, electric bikes, balance bikes, manual scooters and skateboards shall use the tracks and trails at the development hereby permitted. No motorised vehicles shall use any part of the site except the access road and car parking areas.

Reason: In order to protect the tranquillity of the Lincolnshire Wolds Area of Outstanding Natural Beauty and the amenity of the nearby residents. This condition is imposed in accordance with SP23 of the East Lindsey Local Plan and paragraph 135 of the National Planning Framework.

- 19 The cycle park hereby permitted shall not be open before 0800 hours on any day nor after 2000 hours or after daylight whichever is the sooner on any day.

Reason: In order to protect the tranquillity and dark skies of the Lincolnshire Wolds Area of Outstanding Natural Beauty and the amenity of the nearby residents. This condition is imposed in accordance with SP10 and SP23 of the East Lindsey Local Plan and paragraph 135 of the National Planning Framework.

- 20 There shall be no amplified music or public address system operated anywhere on the development hereby permitted.

Reason: In order to protect the tranquillity of the Lincolnshire Wolds Area of Outstanding Natural Beauty and the amenity of the nearby residents. This condition is imposed in accordance with SP23 of the East Lindsey Local Plan and paragraph 135 of the National Planning Framework.