DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0057-24**	**Applicant:**	**Seagate Homes (UK) Ltd**
Proposal:	Details of contamination of land or pollution of controlled waters (Condition 16(i) of H01-1204-22)		
Location:	Former Station Yard Mill Drove South Cowbit		
Terminal Date:	18th March 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2023

Section 11 - Making effective use of land

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This application is for the discharge of condition 16(i) relating to planning application H01-1204-22.

-Condition 16 - Land Contamination

Site Description

The application site lies to the west of Mill Drove South, within the defined settlement boundary of Cowbit. The site consists of part of a former rail yard on the western side of Mill Drove South. The land runs to approximately 0.54 hectares and is considered to be a brownfield site

History

H01-1204-22 - Residential Development comprising 21 dwellings. Approved 12-01-24

Consultation Responses

Environmental Protection

I have reviewed the Ground Engineering Limited 'SITE INVESTIGATION REPORT STATION YARD MILL DROVE SOUTH COWBIT SPALDING LINCOLNSHIRE Report Reference C15840A' dated February 2023. I am in general agreement of the findings that remedial action is required to ensure a safe development at this location. I recommend discharge of part i of condition 16, with part ii remaining outstanding. I look forward to receipt of the remediation method statement in due course, but recommend that the RMS includes the following information: - Generally we look to see 6 ground gas monitoring visits. An adjacent development required ground gas protection measures, and therefore I request a further 3 monitoring visits are undertaken. I am happy for the results of this to be included in the RMS, with the design for any gas protection measures required also submitted at that time. - Site characterisation was low, due to the overgrown nature of the site. I would expect the RMS To include a comprehensive discovery strategy to reflect this. - Remediation is proposed due to elevated levels of Benzo (a) pyrene. Soils were not considered suitable for retention below gardens, buildings or hardstanding. On that basis I am unsure why it is considered acceptable to leave them below 600mm in front gardens? This would need to be fully justified in any RMS. - Guidance on cover systems and subsequent validation can be found in the relevant YALPAG documents, which can be downloaded here: https://www.sholland.gov.uk/article/11653/Planning-application-consultations

Planning Considerations

The only condition sought for discharge is 16'i'; this requires the developer to submit:

As identified as being required following the completion of the preliminary risk assessment, 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.

The applicant has provided a 'Site Investigation Report' by Ground Engineering. Environmental Protection have been consulted and states that they *recommend discharge of part 'i' of condition 16, with part ii remaining outstanding*. On this basis the information is therefore considered acceptable.

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

Conclusion

Condition 16(i) relating to planning application H01-1204-22 is 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.