

DECISION DELEGATED TO HEAD OF PLANNING

Application No:	H01-0057-25	Applicant:	Seagate Homes
Proposal:	Details of Verification Report relating to contamination (Condition 17 of H01-1204-22)		
Location:	Mill Drove South Cowbit Spalding		
Terminal Date:	18th March 2025		

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
06	Developer Contributions
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
18	Affordable Housing
28	The Natural Environment
29	The Historic Environment
30	Pollution
31	Climate Change and Renewable and Low Carbon Energy
32	Community, Health and Well-being
33	Delivering a More Sustainable Transport Network
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards
APPENDIX 8	Developer Contributions for Education Facilities
APPENDIX 9	Developer Contributions for Health Care Facilities

National Guidance

National Planning Policy Framework December 2024

Section 2. Achieving sustainable development
Section 4. Decision-making
Section 5. Delivering a sufficient supply of homes
Section 8. Promoting healthy and safe communities
Section 9. Promoting sustainable transport
Section 11. Making effective use of land
Section 12. Achieving well-designed places
Section 14. Meeting the challenge of climate change, flooding and coastal change
Section 15. Conserving and enhancing the natural environment
Section 16. Conserving and enhancing the historic environment

Representations:

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

CASE OFFICER ASSESSMENT**Proposal**

This proposal seeks to discharge Condition 17 of planning approval H01-1204-22, relating to details of contamination verification report.

Planning approval H01-1204-22 was full planning application for the erection of 21 dwelling.

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

H01-0871-18 - Outline -Residential development - up to 45 dwellings, including re-alignment of Mill Drove to Stonegate Road junction - Approved with S106 15.03.19.

H01-1204-22 - Full - Residential Development comprising 21 dwellings - Approved 12.01.2024

H01-0250-24 - Condition Compliance - Details of footway to connect the development to the existing footway network, estate road & footway finished surface levels, estate road phasing & completion plan, boundary treatments, cycle racks & surface water drainage scheme (Conditions 4, 7, 8, 11, 12 & 13 of H01-1204-22) - Approved 09.07.2024

H01-0380-24 - Condition Compliance - Details of contamination of land or pollution of controlled waters (Condition 16(ii) of H01-1204-22) - Approved 15.07.2024

H01-0567-24 - Condition Compliance - Details of management plan (Condition 15 of H01-1204-22) - Approved 19.08.2024

H01-0628-24 - Condition Compliance - Details of external materials (Condition 3 of H01-1204-22) - Approved 27.08.2024

H01-0605-24 - Non- Material Amendment - Residential Development comprising 21 dwellings - Approved under H01-1204-22. Amendment to change window colour from white to grey - Withdrawn

H01-0647-24 - Non- Material Amendment - Modification of 106 Agreement relating to Affordable Housing (planning approval H01-1204-22) - To be determined

H01-0109-25 - Condition Compliance - Details of external materials (Condition 3 of H01-1204-22) - To be determined

Consultation Responses

Initial Responses Received

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:

SHDC Environmental Protection Officer

I have reviewed Geo-Matters Consulting Engineers 'Clean Cover Validation Final Report' (ref: GML22167) with supplemented photos.

Remediation of the site was to be undertaken as per the Geo-Matters remediation plan report ref 113341(2A). A membrane and covering soil has been installed as per the remediation plan. However, the following information has not been supplied:

Records of the quantity of soil removed

Information relating to the soil imported (origin, chemical suitability for use)

Chemical soil test data for the soil in situ after it has been applied

Paragraph 196 of the National Planning Policy Framework states that planning policies and decisions should ensure that a site is suitable for its proposed use and that adequate site investigation information, prepared by a competent person, is available to inform these assessments. The information submitted to date does not demonstrate that the site is suitable for the proposed use, and therefore I must OBJECT to this application until such time as the above information has been supplied.

Responses Received within Re-consultation

SHDC Environmental Protection Officer

Please could the developer obtain photos to show depths of the cover system in the gardens. This does not have to be done for every plot, just a sample number of photos from the plots. (26th February 2025)

Applicant provides on 22/04/25

Waste Exemption Registration

Topsoil Tickets

Muck Away Tickets

SHDC Environmental Protection Officer

Thank you for your email with the extra information. I have reviewed what we have so far and we do not have any chemical test data for the imported clean soils to site. Does the developer have this information?

I appreciate that there is a time limit to determine this and if you need a decision, based on not having this information I would have to object. (6th May)

Public Representation

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

This proposal seeks to discharge Condition 17 of planning approval H01-1204-22, relating to details of contamination verification report.

Condition Details

The conditions detail:

Condition 17

If contamination of land and/or pollution of controlled waters has been identified as a result of investigation undertaken in accordance with Condition 16 above and remediation is required, a full copy of a verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. The report shall provide verification that the required works regarding contamination have been carried out in accordance with the approved Method Statement(s). Post-remediation sampling and monitoring results shall be included in the closure report to demonstrate that the required remediation objectives and criteria has been fully met.

Note: The applicant is advised that the phased risk assessment required by the Contaminated Land Scheme Condition should be carried out in accordance with the procedural guidance of the Environmental Protection Act 1990 Part 11A.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters. This Condition is imposed in accordance with Condition 30 of the South East Lincolnshire Local Plan, 2019.

SHDC Environmental Protection have been consulted and object on the grounds that no chemical testing data has been carried out on the imported topsoil. The applicant has provided a vast amount of additional information required by Environmental Protection. This includes waste exemption registration, much away tickets and top soil tickets.

Section 34 of the Environmental Protection Act 1990, and the accompanying regulations, outlines the duty of care that individuals and businesses have regarding controlled waste. The muck away tickets are signed and confirmed to be 'inert soil'. The top soil tickets confirm that the product is 'top soil'. Whilst no chemical testing has been carried out on this soil, both company's involved in the waster transfer have a duty of care under Section 34 of the Environmental Protection Act 1990.

In addition to this a signed letter from King Civils confirm that they use "*Clean high quality topsoil*" and that "*The material was sourced from a topsoil strip at a grass field in Haycroft Lane, Spalding*". Given the responsibilities under legislation and the transparent audit trail, it is considered that in this instance, despite the EHO objection that no chemical testing has been carried out, that the condition will, in this instance be discharged.

Conclusion

The details in relation to Condition 17 of planning application H01-1204-22 are considered acceptable and can be 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.