

DECISION DELEGATED TO HEAD OF PLANNING**DECISION DELEGATED TO HEAD OF PLANNING**

Application No: H01-0220-23 **Applicant:** Ark Property

Proposal: Details of contamination of land or pollution of controlled waters (Conditions 13(i) & 13(ii) of H01-0823-19)

Location: Land Off Stonegate Cowbit Spalding

Terminal Date: 17th November 2023

Planning Policies**South East Lincolnshire Local Plan - Adopted: March 2019**

30 Pollution

National Guidance**National Planning Policy Framework 2023**

Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT**Proposal**

This application is to discharge conditions 13i and 13ii of H01-0823-19. This involves details of contaminated of land or pollution of controlled waters.

Site Description

The site is located on an overgrown, disused section of railway yard. The site is within the northern tip of the settlement boundary of Cowbit as outlined in the South-East Lincolnshire Local Plan. The immediate area is characterised by a neglected former railway yard. To the south, east, and north are residential areas. To the west is an area of farmland.

Relevant History

H01-0230-23 - Condition Compliance. Details of external materials, construction management,

storage and disposal of refuse and recycling and boundary treatments (Conditions 6, 12, 14 and 16 of H01-0823-19). 16/05/23.

H01-1162-22 - Condition Compliance. Details of cycle storage - (Condition 2 of H01-0820-22). Approved 20/01/23.

H01-1144-22 - Condition Compliance. Details of external materials, construction management, storage and disposal of refuse and recycling and boundary treatments (Conditions 6, 12, 14 and 16 of H01-0823-19). Refused 20/01/23.

H01-0820-22 - Reserved matters. Erection of five residential dwellings. Approved 4/11/22.

H01-0823-19 - Outline. Erection of five residential dwellings. Approved 21/1/20.

Consultation Responses

Environmental Protection

"I have reviewed the Elemental GI Ltd reports 'PHASE 1 GEO-ENVIRONMENTAL ASSESSMENT FOR LAND NORTH OF STONEGATE, COWBIT ref E22208/1/1 dated January 2023 and 'PHASE 2 GEO-ENVIRONMENTAL INVESTIGATION FOR LAND NORTH OF STONEGATE, COWBIT' Ref E22208/2/1 dated January 2023. I am in general agreement with the findings that remediation is required in order to ensure a safe development. I therefore recommend discharge of parts i, & ii of condition 13 of H05-0468-18 be discharged, with parts iii & iv remaining outstanding. I note that further ground gas monitoring was suggested, and I agree with this in order to further characterise the ground gas regime at this location. When undertaking the options appraisal to consider the remedial options, please consider if 600mm clean cover is appropriate with such elevated levels of Benzo(a)pyrene. Please pass my comments to the developer for consideration."

Planning Considerations

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Condition 13i and 13ii

The submitted details achieve the aims of condition 13i and ii. The requirements of the condition have been met, therefore, condition 13i and 13ii can be discharged. The other conditions (13iii and 13iv) remain outstanding. The comments from the Environmental Protection Department reaffirm this.

As such, conditions 13i and 13ii can be discharged. Conditions 13iii and 13iv remain outstanding a separate application for their dismissal should be submitted.

Conclusion

Condition 13i and 13ii 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.