DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H01-0231-24**	**Applicant:**	**Ark Property**
Proposal:	Details of written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters (Condition 13 iii) of H01-0823-19)		
Location:	Land Off Stonegate Cowbit Spalding		
Terminal Date:	9th May 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2023

Representations:

	Object	Support	No Obj.	Comments

CASE OFFICER ASSESSMENT

Proposal

This application is to discharge conditions 13iii of H01-0823-19. This involves details of a remediation strategy for the contaminated of land on the site.

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

H01-0779-23 - Condition Compliance. Details of written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters (Condition 13 iii) of H01-0823-19). Refused 30/11/23

H01-0220-23 - Condition Compliance. Details of contamination of land or pollution of controlled waters (Conditions 13(i) & 13(ii) of H01-0823-19). Approved

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). Approved 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 am in general agreement with the findings and recommend discharge of Condition 13 iii of H01-0823-19. Part iv remains outstanding.

The applicant has submitted some information in relation to condition 13 part iv as follows:
Installation Completion Certificate - Plots 3, 4 & 5 - although I usually expect more detail than this, as per the YALPAG guidance, I will accept this.

Four sets of topsoil test results. Whilst the test results appear acceptable, there was no supporting information as the quantity, ratio for testing or source. I would expect this following the validation reports as usual.
I look forward to receipt of the gas validation for plots 1 & 2 and the soil validation report in due course"

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, December 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Condition 13iii

The relevant consultee from the Environmental Protection Department has recommended the discharge of the condition. The submitted details achieve the aims of condition 13iii. The requirements of the condition have been met and therefore Condition 13iii 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.

Conclusion

Condition 13iii can be discharged.