DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H01-0560-20**	**Applicant:**	**Optimal Homes Ltd**
Proposal:	Details relating to contamination (Condition 3 of H01-0512-19)		
Location:	5a Stonegate Cowbit Spalding		
Terminal Date:	8th September 2020		

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
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing
30	Pollution

National Guidance

National Planning Policy Framework 2019

Sections 5, 12 and 14 of the National Planning Policy Framework (2019)

5 - Delivering a sufficient supply of homes
12 - Achieving well-designed places
14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a condition compliance application relating to contamination for condition 3 of H01-0512-19 at 5a Stonegate, Cowbit. The applicant has submitted a contamination assessment to be scrutinised by the Environmental Protection Officer.

Site Description

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design.

History

H01-0391-89

Mobile home - Approved - 29 June 1989

H01-1054-05

Erection of detached dwelling - Refused - 26 September 2005

H01-0562-11

Outline - Residential development - erection of dwelling to include shared access which will also serve 5 Stonegate - Approved - 12 September 2011

H01-0090-12

Reserved matters - Erection of detached dwelling to include shared access with 5 Stonegate (outline application H01-0562-11) - Approved - 20 April 2012.

H01-0769-16

Outline - Residential development - Approved - 05 December 2016

H01-0053-18

Reserved matters - Erection of dwelling - Approved - 12 March 2018.

H01-0512-19

Full - Erection of dwelling - re-application of H01-0053-18 - Approve - 18 July 2019.

Consultation Responses

Environmental Protection Officer

"I have reviewed the information submitted, combined with a site visit with the applicant, and recommend discharge of Condition 3 of H01-0512-19 in full."

Planning Considerations

Policy 30 of the SELLP - Pollution

Policy 30 states:

"Development proposals will not be permitted where, taking account of any proposed mitigation measures, they would lead to unacceptable adverse impacts upon:
1. health and safety of the public;
2. the amenities of the area; or
3. the natural, historic and built environment; by way of:
4. air quality, including fumes and odour;
5. noise including vibration;
6. light levels;

7. land quality and condition; or
8. surface and groundwater quality.
Planning applications, except for development within the curtilage of a dwelling house as specified within Schedule 2, Part 1 of The Town and Country Planning (General Permitted Development)(England) Order 2015, or successor statutory instrument, must include an assessment of:
9. impact on the proposed development from poor air quality from identified sources;
10. impact on air quality from the proposed development; and
11. impact on amenity from existing uses.
Suitable mitigation measures will be provided, if required. Proposals will be refused if impacts cannot be suitably mitigated or avoided.
Development proposals on contaminated land, or where there is reason to suspect contamination, must include an assessment of the extent of contamination and any possible risks. Proposals will not be considered favourably unless the land is, or can be made, suitable for the proposed use."

When assessed against the above criteria, the following observations can be made:

(1) The proposal does not present a risk to the health and safety of the public, nor (2) the amenities of the area. There are no historic buildings in the vicinity that would be affect by the proposal (3), and no dwellings would suffer an adverse impact on air quality (4) noise (5) or light levels (6). Land condition (7) and surface and ground water quality (8) have been assessed in the submitted documents and the Environmental Protection Officer has expressed no objections to the submitted details.

There is not considered to be an impact on air quality (9) from existing identified sources, the proposed development (10) or impact on amenity from the existing uses nearby (11).

Compliance with Condition 3 of H01-0512-19

Condition 3 of H01-0512-19 stated:

"Within six months of the date of this decision a scheme to deal with any contamination of land or pollution of controlled waters has been submitted to and approved in writing by the Local Planning Authority (LPA). The scheme shall include all of the following measures:

i) a desk-top study carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/Quantitative Risk Assessment (or state if none required). Two full copies of the desk- top study and a non-technical summary shall be submitted to the LPA without delay upon completion.
ii) if identified as being required following the completion of the desk-top study, a 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 new use. Two full copies of the site investigation and findings shall be forwarded to the LPA without delay upon completion.
iii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters affecting the site shall be submitted to and approved in writing by the LPA, and all requirements shall be implemented and completed to the satisfaction of the LPA. No deviation shall be made from this scheme. If during redevelopment contamination not previously considered is identified, then the LPA shall be notified immediately and no further work shall be carried out until a method statement detailing a scheme for dealing with the suspect contamination has been submitted to and agreed in writing by the LPA.
iv) two full copies of a full closure report shall be submitted to and approved in writing by the LPA. 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 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.

The applicant's attention is also drawn to the document entitled "Developing Land Within Lincolnshire - A guide to submitting planning applications to develop land that may be contaminated", which can be obtained through the Local Environmental Health Department.

Reason: To assess whether the site is polluted and to address any pollution to ensure a satisfactory development. This issue is integral to the development and therefore full details need to be finalised prior to the commencement of works.
This Condition is imposed in accordance with Policy 30 of the South East Lincolnshire Local Plan, 2019."

Having reviewed the submitted details the Environmental Protection Officer considers Condition 3 of H01-0512-19 to be addressed.

Conclusion

Condition 3 of H01-0512-19 can now be discharged in full.

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.