

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H01-0853-24 **Applicant:** Ark Property

Proposal: Details of full closure report (Condition 13iv of H01-0823-19)

Location: Land Off Stonegate Cowbit Spalding

Terminal Date: 4th December 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

National Guidance

National Planning Policy Framework 2023

Representations:

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

CASE OFFICER ASSESSMENT

Description of Proposal

This application is seeking to discharge condition 13iv of H01-0823-19 relating to details of a closure report. Condition 13iv reads as follows:

"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."

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

H01-0231-24 - 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). Approved 11/10/24.

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 14/11/23.

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

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

Initial comments, received 20/11/24:

"Following review of the retrospective ground gas mitigation design strategy for plots 1 and 2, I would have no further comments to make. Following review of the verification statement dated 8th October 2024 I wish to see evidence that depths of clean soils imported soils in garden areas of plots 1-5 are at a depth of at 600mm above the capping layer. I would also like to see evidence of the amount of soil imported to site and chemical test data for this imported soil"

Revised comments, received 04/12/24

"I have reviewed the photos submitted showing the top soil levels are at least 600mm as stated in the remediation strategy and find this acceptable. I have also reviewed the topsoil certificates and find these to be satisfactory. After review these document with the retrospective ground gas mitigation design strategy & 3rd party inspection, testing and validation report by Membrane Testing Solutions and the verification statement by Studio 11 Architecture Limited and agree with the findings. I therefore would like to discharge condition 13 (iv)"

Public Representations

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.

Key Planning Considerations

Condition 13iv

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

It is considered that adequate details have been provided to discharge Condition 13iv of H01-0823-19.

Recommendation

Based on the assessment detailed above, it is recommended that the proposal should be approved under Delegated Authority.