DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H02-1071-21**	**Applicant:**	**Miss E Blackbird & Mr L Stewart**
Proposal:	Details of ground investigation report, remediation method statement and validation details (Condition 3 of H02-0716-21)		
Location:	Adj. 11 Blackbird Close Crowland		
Terminal Date:	5th December 2023		

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
36	Vehicle and Cycle Parking
APPENDIX 6	Parking Standards

National Guidance

National Planning Policy Framework 2023

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
PARISH COUNCIL	0	0	1	0
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

SITE DESCRIPTION

The dwelling is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and designs. A newly constructed dwelling approved under H02-0775-18 is sited immediately to the south of plot. Part of the site is Environment Agency Flood Zone 3, therefore a Flood Risk Assessment was required. The site is in a "Danger for Most" hazard area, with a maximum predicted flood depth of 1 metre on the 2115 South Holland Strategic Flood Risk Mapping to the northern most extent of the site.

PROPOSAL

This is a condition compliance application on land adjacent 11 Blackbird Close, Crowland that seeks to provide details of the ground investigation report, remediation method statement and validation details (Condition 3 of H02-0716-21).

RELEVANT HISTORY

H02-1082-15

Full - Residential development 41 dwellings with associated parking and garages - Approved - 21 August 2017.

H02-0775-18

Full - Erection of detached dwelling with detached garage block with annexe over, including private drive access - Approved - 12 October 2018.

H02-0296-19

Condition Compliance - Details relating to contamination (Condition 3 of H02-0775-18) - Approved - 20 May 2019

H02-1084-19

Condition Compliance - Details of external materials, boundary treatment and landscaping and tree planting (Conditions 4, 5 & 6 of H02-0775-18) - Approved - 11 December 2019.

H02-0292-21

Full - Proposed New Dwelling & Garage - Approved - 22 June 2021.

H02-0716-21

Full - Proposed dwelling and garage - re-submission of H02-0292-21 - Approved - 26 August 2021.

H02-0899-22 - To north of access road

Full - Erection of 3 bungalows & garages - Refused - 22 September 2023.

CONSULTATION RESPONSES

South Holland District Council - Environmental Protection

Received 02 December 2021 - *"Ground Engineering Ltd reports 'Ground Investigation Report Land off Peterborough*
Road, Crowland' report ref C14639 dated February 2019 and 'Remediation Method Statement Former transport yard, land off Peterborough Road, Crowland' ref C14639A dated May 2019 and recommend discharge of parts i-iii of Condition 3 of H02-0716-21. Validation is required that the works were undertaken in order to completely discharge this condition."

Crowland Parish Council

"The Parish Council have no comments on this application."

EVALUATION

Assessment against Condition 3 of H02-0716-21 - Contaminated Land Scheme

Condition 3 of H02-0716-21 states:

"The development hereby permitted shall not be commenced until 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) and until the measures approved in that scheme have been implemented. 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."

Photographic and any other other evidence is required to show that the actions to be undertaken in the Remediation Method Statement have been successfully completed. The applicant has stated that the build is almost complete. An officer site visit on Tuesday the 27th of June 2023 confirmed that the dwelling has now been completed.

The applicant has stated that they do not own the access road where potential contamination is sited. Additionally this road is completed and serves more dwellings than the application site dwelling. A previous condition compliance application concerning contamination for this site was approved under reference H02-0296-19. The Environmental Protection Officer on that application stated *"SHDC Environmental Protection - Reviewed the Ground Engineering Ground Investigation report 'Land off Peterborough Road Crowland Lincolnshire' Ref C14639 dated February 2019 and recommends discharge of part ii of the condition. However, a remediation method statement was requested stating how the asbestos containing soil under the proposed roadway will be dealt with*

during construction. This was subsequently received and is considered adequate to satisfy part iii of the condition." There were no outstanding parts of the contamination condition left to be addressed.

Given that a previous contamination condition compliance application has been approved under H02-0296-19, It is considered that on balance it is unlikely that there is any contamination present on site within the ownership of the applicant. It would be considered to be overly onerous to request that land outside the ownership of the applicant is dug up to to undertake further contamination work when a condition compliance application covering contamination on this site was approved 4 years ago, and 2 years since this contamination condition compliance application was submitted.

CONCLUSION

Given that a previous condition compliance regarding contamination was approved under H02-0296-19 with no parts outstanding and the entirety of the site is covered by the previously approved contamination condition compliance application, it is considered that Condition 3 of H02-0716-21 has now been addressed.

RECOMMENDATION

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

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.