

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H03-0060-25 **Applicant:** Emerald Homes
Lincolnshire Limited

Proposal: Details of contamination of land, pollution of controlled waters and private water supply (Condition 14 (i) of H03-0161-17)

Location: Home Farm Littleworth Drove Deeping St Nicholas

Terminal Date: 21st March 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework December 2024

Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Details of contamination of land, pollution of controlled waters and private water supply (Condition 14 (i) of H03-0161-17). Please note this is only part of the condition to be discharged as the condition is made up of (i), (ii) and (iii).

Site Description

As Host Consent

History

H03-0061-25 - Details of Travel Plan - undetermined.

H03-1044-24 - Details of existing and proposed site levels, proposed floor levels, hard surfaced areas, garden/amenity areas, mitigation measures and external materials (Conditions 2 and 4 of

H03-0598-24). Approved 3 February 2025.

H03-0598-24 - Erection of 119 dwellings and a village hall along with ancillary development including the construction of an attenuation pond - Outline approval H03-0161-17. Approved 7.11.2024.

H03-0161-17 - Outline planning application with all matters reserved - Erection of up to 120 dwellings and a village hall and ancillary development. Approved 22.12.2021.

Consultation Responses

SHDC Environmental Protection

I have reviewed the phase 1 and phase 2 Geo-environmental assessment completed by EPS document reference: UK.22.6097 submitted. I am in general agreement with the reports findings and proposals for waste management and the plan to remove the buried tank (and pipework) and the associated contaminated soil from its surrounds.

I would agree that ground gas protection measures need installing. The method of ground gas protection is missing from this report and therefore the method chosen needs to be submitted to the LA for approval.

I am in agreement with the cover system proposed for this development. However I would ask that particularly in domestic gardens where future residents could grow their own produce and trees/ shrubs the cover system depth is increased to at least 600mm- 800mm with either a no dig layer or membrane underneath the cover system.

At this stage I would recommend a discharge of condition 14 (i).

However for the discharge of condition 14 (ii) a method statement needs submitting to the LA of the ground gas protection measures and a revised method for the proposed cover system.

To discharge condition 14 (iii), validation reports will need submitting for completed ground gas protection measures, removal of buried fuel tank and completed cover system.

Planning Considerations

Condition 14 of H03-0161-17 is as follows:

Condition Wording]

"The development hereby permitted shall not be commenced until a scheme to deal with any contamination of land or pollution of controlled waters and private water supply 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) 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 and private water supply. 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.

ii) thereafter, a written method statement detailing the remediation requirements for land contamination and/or pollution of controlled waters and private water supply 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.

iii) 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."

Condition Detail

A Phase I & II Geo-Environmental Assessment was submitted to satisfy the requirements of the condition.

This application relates to the first element of condition 14 only, i.e. 14 (i). Environmental Protection have responded that they agree with the details as submitted.

Environmental Health do not object to the submitted details and are satisfied that 14 (i) can be discharged.

It is therefore considered that 14 (i) can be discharged.

Conclusion

Discharge Condition 14 (i).

Add a note on the decision notice that condition 14 (ii) and 14 (iii) remain outstanding and need to be discharged separately.

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.