DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H04-1031-24**	**Applicant:**	**Seagate Homes**
Proposal:	Details of full closure report (Condition 8(ii) of H04-0244-16)		
Location:	Land Off Malting Lane Donington Spalding		
Terminal Date:	31st January 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30	Pollution
02	Development Management
03	Design of New Development
32	Community, Health and Well-being

National Guidance

National Planning Policy Framework December 2024

12 Achieving Well Designed Places
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 full closure report (Condition 8 (ii) of H04-0244-16).

The condition relates to validation reports associated with contamination.

Site Description

As host consent.

History

H04-0015-05 - Re-development of industrial Site for Residential. Refused 12 January 2005.

H04-0244-16 - Outline planning application for a residential development of approximately 73 dwellings (Class C3), all matters are reserved, except for access. Approved 30th November 2017.

H04-0268-20 RESERVED MATTERS. Erection of 40 Dwellings - outline approval H04-0244-16. Approved 2 November 2021..

H04-1029-20 - RESERVED MATTERS - Erection of 32 Dwellings - outline approval H04-0244-16. Approved 2nd November 2021. .

H04-0728-22 - Details of remediation method statement, surface water drainage scheme, construction and traffic management scheme, noise and vibration report, deposit of mud precautions, existing and proposed site levels/floor levels and foul water disposal (Conditions 8 (Part i), 9, 12, 14, 15, 16 and 18 of H04-0244- 16). Approved 27 October 2023.

H04-1117-22 - Details of external materials, roads and/or footways, external gas and electricity boxes, cycle storage and proposed boundary treatment (Conditions 4, 5, 11, 13 and 19 of H04-0244-16). Approved 27 October 2023.

H04-1139-22 - Details of boundary treatments, gas and electricity external boxes, landscape management and maintenance and swift nest bricks. (Conditions 2, 4, 7 and 8 of H04-0268-20). Approved 27 October 2023.

H04-0038-24 - Details of estate road & associated footways (Condition 7 of H04-0244-16). Approved 13 March 2024.

H04-0359-24 - Details of surface water drainage scheme, existing & proposed site levels & proposed floor levels and means of foul water disposal (Conditions 9, 16 & 18 of H04-0244-16). Approved 28 May 2024.

H04-0488-24 - Details of construction and traffic management scheme & precautions to prevent the deposit of mud on public highways (Conditions 12 & 15 of H04-0244-16). Approved 22 July 2024.

H04-0548-24 - Details of scheme for the provision of swift nest bricks (Condition 8 of H04-1029-20). Approved 30th July 2024.

H04-0549-24 - Details of schedule of external materials, kerbs and surfacing of roads and design & location of secure cycle storage (Conditions 4, 5 & 13 of H04-0244-16). Approved 30th July 2024.

H04-0517-24 - Land off Malting Lane - details of water supplies to the Fire Service (Condition 17 of H04-0244-16). Approved 1st August 2024.

H04-0575-24 - Details of design & position of all external boxes for gas & electricity supplies and of any gas flues & soil vent pipes - Condition 11 (phase 2 only) of H04-0244-16. Approved 2 August 2024.

H04-0555-24 - Details of full closure report (Condition 8(ii) of H04-0244-16). Refused 14 August 2024.

H04-0582-24 - Details of design & positions of all external boxes for gas & electricity supplies & any gas flues & soil vent pipes (Condition 4 of H04-1029-20). Approved 30.08.2024.

Consultation Responses

SHDC Environmental Protection

I have reviewed the geomatters consulting engineers report ref ML/GML19177/Com1 remedial validation for Malting Lane, Donington dated 5th Dec 2024. It shows that the proposed remediation for this site has taken place regarding contamination of Asbestos and PAH's. I can confirm that condition 8 (ii) can be discharged.

Planning Considerations

This is a condition compliance application in relation to Condition 8 (ii) only.

Condition 8 Wording

"Unless any parts of this condition are dispensed with in writing by the local planning authority, the development hereby permitted shall not be commenced until the following have been submitted to and approved in writing by the Local Planning Authority (LPA) and until the measures approved have been implemented:

i) 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.

ii) 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.

The details under consideration here relate only to part (ii) of Condition 8.

Condition 8 (Part i) was discharged on 28 October 2023 under reference H04-0728-22 - Details of remediation method statement and other conditions.

Application H04-0555-24 - Details of full closure report (Condition 8(ii) of H04-0244-16) was Refused on 14 August 2024 for the following reason:

"The submitted information has not provided information that suitably verifies that the required works have been carried out in accordance with the approved Remediation Method Statement dated October 2023. The validation report covers a much smaller area and no information was submitted relating to why the change was justified. As a result, the closure report does not demonstrate that the remediation requirements have been fully met. As such, the details are contrary to Policy 30 of the South East Lincolnshire Local Plan 2019 which states that development proposals on contaminated land will not be considered favourably unless the land is, or can be made suitable for the proposed use."
H04-0556-24 - Details of noise & vibration report & boundary treatment (Conditions 14 & 19 of H04-0244-16). Refused 29th August 2024.

Condition Detail

The current scheme attempts to overcome the previous reason for refusal by providing further information in terms of the following:

The submission contains the application form, and a letter dated 5th December 2024 reference GML19177: Remedial Validation for Malting Lane, Donington, by Geomatters, Consulting Engineers.

The report provides a summary of validation works undertaken to date. In terms of site works, Geomatters were asked to attend to the site during excavation to complete the following:
-record the works being undertaken;
-Hand pick asbestos fragments from the excavation works within the area of concern and place separately for testing/removing off site
-obtain samples of excavations and prove stability for the continued development for a residential end use and
-obtain samples of the soil being moved to the public open space area for laboratory analysis to

prove fit for purpose.
The activity included a watching brief, sampling regime, laboratory analysis.

The only consultee for this condition compliance application was SHDC Environmental Protection who have responded with no objections to the submitted report. They confirm the condition can be discharged.

It is concluded that the information supplied is sufficient to discharge the condition.

Conclusion

The submitted details are sufficient to discharge Condition 8 (ii) of H04-0244-16.

Recommendation

Discharge condition 8 (ii) of H04-0244-16

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.