DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H06-1116-22**	**Applicant:**	**Mr O Read**
Proposal:	Details of contamination of land or pollution of controlled waters (Condition 4 of H06-0868-21)		
Location:	Adj Seabreeze Marsh Road Gedney Drove End		
Terminal Date:	18th January 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2021

Section 2. Achieving sustainable development.
Section 8. Promoting healthy and safe communities.

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a condition compliance application to discharge condition 4 (contaminated land scheme) of application H06-0868-21.

Site Description

The site is adjacent Sea Breeze on Marsh Road in Gedney Drove End. It is located within the Gedney Drove End settlement boundary. The site is between two existing dwellings knows as The Bungalow and Sea Breeze. The site backs onto the open countryside. The surrounding area is characterised by dwellings of varying ages and design.

History

H06-0868-21 - Erection of pair of 2 bed semi-detached dwellings - Approved

H06-0202-18 - Erection of two new dwellings with vehicular access - Approved

Consultation Responses

SHDC Environmental Protection

The Envirosearch Report by Groundsure does not constitute a Desktop Study or Phase 1 Report therefore Part (i) of Condition 4 of H06-0868-21 has not been met. The Phase 3 Report provides a remediation and verification plan for gas protection measures in the proposed dwellings, however the previous reports for the site have not been submitted or reviewed.

Planning Considerations

Condition 4 (Land contamination scheme)

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.

The SHDC Environmental Health Officer has advised that the submitted Envirosearch Report by Groundsure does not constitute a Desktop Study or Phase 1 Report therefore Part (i) of Condition 4 of has not been met. The Phase 3 Report provides a remediation and verification plan for gas protection
measures in the proposed dwellings, the previous reports for the site have not been submitted. The

report refers to 3134D P1 Read by Castledine dated May 2021 therefore this (and any other relevant reports) should be provided by the applicant to be reviewed by the Environmental Health Officer. As such condition 4 cannot 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

Taking the above into account, it is considered that Condition 4 relating to application H06-0868-21 cannot be discharged.