

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-0475-22 **Applicant:** R T W Construction & Developments Ltd.

Proposal: Details of contamination of land or pollution of controlled waters (Condition 5 of H08-0866-18)

Location: Land Off Boston Road Gosberton Spalding

Terminal Date: 6th July 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2021

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 scheme to deal with contamination (Condition 5 of H08-0866-18).

Site Description

As original application.

History

H08-0866-18 - Outline - Residential development - for up to 18 dwellings (approved March 2019).

Consultation Responses

SHDC Environmental Protection - initial comments:

"I have reviewed the Ground Investigation and am in general agreement with the findings, but would ask for clarification on why the risk due to soil gas on human users of the completed development changed from 'Low' in table 4 to 'Very low' in table 6 with no monitoring, testing or discussion? The potential for exposure to groundworker is discussed, no comment is made in the site walkover about the former brick pit, organic soils are described in the trial pit logs and therefore the inclusion of the potential pollutant linkage for further consideration seems reasonable at this stage. We advise that we do accept the RBL17 approach, but that it must be appropriately detailed and site specific."

Agent in response to point raised by Environmental Protection:

"Table 4 is the preliminary conceptual model, and with potential sources identified in Table 1, which are mentioned in the preceding history and environmental summaries, a 'low' risk was identified for soil gas and human users. Table 6 is the updated conceptual model, following the findings of the investigation, and with a cover of silty clay found across the site (blocking pathway), the risk to human users from soil gas was reduced to 'very low'. The soil gas section in the comments at the rear provides a simple summary of the findings. We also stated 'Consideration should be given to gas monitoring within deep or confined spaces since carbon dioxide could accumulate within any excavations, service chambers or sub-structures.' Excavations into the slightly organic clay at depth would seem unlikely, therefore not presenting a viable pathway. It would also seem likely that floor slabs for new properties will be raised above the existing ground level, incorporating sub-floor gaps, blocking potential pollutant linkage."

SHDC Environmental Protection - subsequent comments:

"Following clarification of points by Ground Engineering I recommend discharge of Condition 5 of H08-0866-18 in full."

Planning Considerations

The comments of the Council's Environmental Protection Officer are self-explanatory and the details submitted are considered acceptable.

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 5 of H08-0866-18 can be discharged.