

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H08-0987-23 **Applicant:** Woodgate Developments Ltd

Proposal: Details of contamination verification (Condition 11 (ii) of H08-0678-16)

Location: 25a High Street Gosberton Spalding

Terminal Date: 2nd January 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development
30 Pollution

National Guidance

National Planning Policy Framework 2023

Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This is a condition compliance application relating to condition 11ii of H08-0678-16. This relates to details of contamination remediation and verification reports.

Site Description

The application site is greenfield land (some in agricultural use) located behind properties within High Street, and partly adjacent the highway along Boston Road (B1397). The site is generally open, with some trees and bushes around the edges of the site. There are residential properties to the north, west and south with open land to the east on the opposite side of Boston Road.

Relevant History

H08-0678-16 - Outline. Residential development. Approved 9/07/18.

H08-0744-21 - Reserved Matters. Residential development & associated works - outline approval H08-0678-16. Approved 31/1/22.

H08-0222-22 - Section 73A. Residential Development & associated works approved under H08-0744-21. Amendments to site layout, elevations and floor plans. Approved 05/04/22.

H08-0223-22 - Condition Compliance. Details of roads & footways, surface water drainage scheme, method statement & closure report, scheme for the provision of bat boxes, design & position of all external boxes, gas flues & soil vent pipes, construction management plan and management plan for areas of publicly accessible open space (Conditions 7, 9, 10, 11 (i), 13, 14, 15 & 17 of H08-0678-16) and details of management & maintenance schedule for areas of landscaping, open space, refuse/recycling collection points & parking courts/private drives, levels of footway to rear of Highbridge House, Fairholme & Greetham's Bungalow and details of external lighting (Conditions 2, 4 & 5 of H08-0744-21). Approved 06/07/22.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Environmental Protection

"I have reviewed: - the email from Nathan Proctor of Woodgate Developments sent 14/11/2023 13.27 - The calculations of soil required and site won soil - The conditions Summary H08-0678-16 by Peter Humphrey Associates - Email from Elemental GI dated 26/10/23 4.35pm And recommend discharge of condition 11 of H08-0678-16 in full. It should be noted that Elemental GI suggest that because the soil was not placed as part of a remediation, verification is not required. This is acceptable in this instance because all soil was sourced on site and covered by the previous investigations. Had the soil been imported, 3rd party validation would have been required. "

Evaluation

Section 38 (6) of the Town and Country Planning Act, as amended by the 2004 Act, requires that the Local Planning Authority makes decisions in accordance with the adopted Development Plan, unless material considerations indicate otherwise.

The adopted South-East Lincolnshire Local Plan 2011-2036, adopted March 2019 (SELLP), is the development plan for the district, and is the basis for decision making in South Holland. The relevant development plan policies are detailed within the report above.

The policies and provisions set out in the National Planning Policy Framework, 2023 (NPPF) are also a material consideration in the determination of planning applications, alongside adopted Supplementary Planning Documents.

Condition 11ii

The submitted details achieve the details achieve the requirements set by condition 11ii. The comments from the Environmental Protection department confirm that the condition has been satisfied and that condition 11ii can be discharged.

Condition 11ii can be discharged.

Conclusion

Condition 11ii of H08-0678-16 can 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.