DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0347-24**	**Applicant:**	**Mr B Dawson**
Proposal:	Details of contamination of land or pollution of controlled waters (Condition 9 of H09-0421-23)		
Location:	Land Off Penny Hill Road Holbeach Spalding		
Terminal Date:	11th June 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
31	Climate Change and Renewable and Low Carbon Energy

National Guidance

National Planning Policy Framework 2023

Section 2. Achieving sustainable development.
Section 12. Achieving well designed and beautiful places.
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 application is seeking to discharge planning condition 9 of H09-0421-23. This condition involves details of contamination of land or pollution of controlled waters.

Site Description

The site (approximately 0.049ha) is located on the eastern side of Penny Hill Road some 110 metres from the A17 junction. It was originally part of a nursery. A bungalow is located to the south and Town Farm Cottage beyond (grade II listed). A bungalow (Five Acres) is situated opposite.

History

H09-0789-11 - Full - Erection of 26 affordable houses, 4 market houses, sports pavilion and grass football pitches along with associated car parking - Granted 11 March 2014.

H09-0475-18 - S73A - Erection of 32 dwellings with associated garaging, roads and sewers (24 no. market housing and 8 no. affordable) - Granted 23 January 2019.

H09-0323-19 - S73A - Erection of 32 dwellings with associated garaging, roads and sewers - approved under H09-0475-18 - Modification of Condition 2 to allow amendments to change house type from Bransby to Ribble - Granted 21 November 2019.

H09-0863-19- Full - Erection of 9 dwellings with associated garaging and driveways - Refused 16 December 2019.

H09-0284-21 - Full - Erection of 5 two-storey dwellings - Granted 14 May 2021

H09-0421-23 - Section 73 Modification - Erection of 5 two-storey dwellings - approved under H09-0284-21. Modification of Condition 2 to allow amendments to previously approved plans and Condition 7 to amend the means of discharge of foul water to a package treatment plant - Granted 10 July 2023

Consultation Responses

Environmental Protection

I have reviewed the information submitted as part of amendment one including the Robert Doughty Consultancy drawing no 1514-2_CC_SPO1 revision B, the Memtech standard details and the proposed verification. I therefore recommend discharge of condition 9 of H09-0421-23 with condition 10 remaining outstanding.

Planning Considerations

Condition 9 - Contaminated Land Scheme

Condition 9 of H09-0421-23 states that:

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).

The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:
i) A preliminary risk assessment (desk study) shall be 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). A full copy 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, an exploratory 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 end use. A full copy 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 strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion shall be submitted to and approved in writing by the LPA. This shall include details of the proposed verification plan including compliance criteria and monitoring details.

No deviation shall be made from this scheme without the express written agreement of the LPA. 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 suspected contamination has been submitted to and agreed in writing by the LPA.

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.

Environmental Protection were consulted on this application and raised no objections with their comment reading 'I have reviewed the information submitted as part of amendment one including the Robert Doughty Consultancy drawing no 1514-2_CC_SPO1 revision B, the Memtech standard details and the proposed verification. I therefore recommend discharge of condition 9 of H09-0421-23 with condition 10 remaining outstanding'.

Condition 9 of H09-0421-23 can therefore be discharged.

Conclusion

The details in relation to Condition 9 are acceptable and it can therefore 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.