DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H09-0399-23**	**Applicant:**	**R K Wilson Builders Ltd**
Proposal:	Details of contamination of land or pollution of controlled waters and archaeological investigation. (Conditions 7, 8, 9 and 10 of H09-0542-19)		
Location:	Land Off Chapel Drove Holbeach Drove Spalding		
Terminal Date:	4th March 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
10	Meeting Assessed Housing Requirements
11	Distribution of New Housing
17	Providing a Mix of Housing

National Guidance

National Planning Policy Framework December 2024

Section 5 - Delivering a sufficient supply of homes
Section 12 - Achieving well-designed places

Representations:

	Object	Support	No Obj.	Comments
HISTORIC ENVIRONMENT OFFICER	0	0	0	1
SOUTH HOLLAND INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

This is a Condition Compliance application at Lane off Chapel Drove, Holbeach Drove for details of contamination of land or pollution of controlled waters and archaeological investigation. (Conditions 7, 8, 9 and 10 of H09-0542-19).

Site Description

The proposal is within defined settlement limits and the surrounding area is characterised by dwellings of varying ages and design to the north and east, with arable fields to the south and west. The site is in Flood Zone 1 on the Environment Agency Flood Map and not affected by increased flood hazard or depth on the 2115 South Holland Strategic Flood Risk Mapping.

Relevant Planning History

H09-0542-19 - Outline - Residential development - Approved - 12 July 2019.

H09-0122-21 - Full - Proposed residential development - 4 dwellings - Approved - 07 May 2021.

H09-0670-22 - Reserved Matters - Residential Development - 4 Dwellings - Outline Approval H09-0542-19 - Approved - 01 February 2023.

H09-0489-23 - Section 73 Modification - Residential Development - 4 Dwellings - approved under H09-0670-22. Modification of Condition 1 to allow amendments to previously approved plans - Approved 14 July 2023

Consultation Responses

South Holland District Council - Environmental Protection

Initial comments received 21/06/23

"I have reviewed the Delta Simons report 'Preliminary Geo-Environmental Risk Assessment Land off Chapel Drove, Holbeach Drove, Spalding Issued: July 2022 Delta-Simons Project No: 19-1448.01' and am in general agreement with the findings. The report makes recommendations for a geoenvironmental site investigation. I have reviewed the Shields Wilson report 'GROUND INVESTIGATION REPORT UPON LAND OFF CHAPEL DROVE, HOLBEACH DROVE, LINCOLNSHIRE, PE12 0PS PROJECT No: SW 21-242 DOCUMENT REF: SW 21-242-REP-02 dated July 2022'. This is a geotechnical report for foundation design, and I make no comment on the findings. Given its geotechnical nature, the scope of the report does not provide sufficient information in order address the recommendations made by Delta Simons, nor does it link to the conceptual model. I therefore recommend discharge of condition 7 part i of H09-0542-19 with parts ii-iv remaining outstanding."

Revised comments - 07/02/24

"I have reviewed the Goldfinch Environmental Limited report 'PROPOSED RESIDENTIAL DEVELOPMENT LAND AT CHAPEL DROVE HOLBEACH DROVE SPALDING LINCS GEOENVIRONMENTAL GROUND INVESTIGATION REPORT - PHASE 2 Report Ref.: 0916/2' dated January 2024 and in general agreement with the findings. I therefore recommend discharge of parts i & ii of condition 7 of H09-0542-19.
The report recommends remedial action is required in two areas: removal of asbestos impacted soils and installation of ground gas protection measures. To ensure swift discharge of part iii of condition 7 of H09-0542-19 when the application is made, I make the following comments to assist the applicant:
Removal for asbestos contaminated soil is discussed it report section 9.1. Given the very small scale of the issue at this location, section 9.1 would be sufficient subject to confirmation of the exact membrane (which is to act as a warning layer and prevent soil mixing) to be installed. I would also advise that any imported soil should be subject to sampling and tested at rates as set out in the YALPAG document 'VERIFICATION REQUIREMENTS FOR COVER SYSTEMS Technical Guidance for Developers, Landowners and Consultants Yorkshire and Lincolnshire Pollution Advisory Group Version 4.1 - June 2021'
Section 9.2 of the report makes a recommendation for ground gas protection measures to be installed in accordance with characteristic situation 2 of BS 8485:2015+A1:2019 'Code of

practice for the design of protective measures for methane and carbon dioxide ground gases for new buildings'.
Full details of the design setting out how a score of 3.5 will be achieved should be submitted for approval. This should include the proposed membrane and a schedule for validation. Further guidance is given in 'VERIFICATION REQUIREMENTS FOR GAS PROTECTION SYSTEMS Technical Guidance for Developers, Landowners and Consultants Yorkshire and Lincolnshire Pollution Advisory Group Version 1.1 - December 2016'
Please note that whilst verification should be undertaken by a 3rd party, the Environmental Protection Team at SHDC do not have a preferred supplier as suggested in the report.
Unfortunately the report uploaded on the portal does not contain the appendices. I have forwarded a fully copy to the planning officer and ask that this be uploaded. Please pass a copy of my comments to the applicant"

LCC Historic Places Team

"Thank you for consulting us on this application to discharge conditions 8, 9 and 10 of permitted application H09-0542-19.
The report provided meets the requirements for discharge of the above conditions, subject to confirmation that digital copies have been sent to the Lincolnshire Historic Environment Record and uploaded to the Archaeology Data Service (York).
I note that only an image of the front page of the report has been uploaded on the planning portal and recommend that a full copy be held on the District Council system if it hasn't already"

South Holland Internal Drainage Board

"Thank you for your consultation on planning application H09-0399-23. Having screened the application, whilst the
site in question lies within the Internal Drainage District of the South Holland Internal Drainage Board the proposed
application does not meet our threshold for commenting as per our Planning and Byelaw Strategy. Therefore the
Board has no comments to make. "

MATERIAL CONSIDERATIONS

Condition 7 - Contaminated Land Scheme

Condition 7 reads as follows:

"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"

Responses received from the Environmental Protection Department in February 2024 requested the submission of a remediation method statement. Subsequently, an unrequested Gas Membrane Installation validation report was submitted in August 2024, followed by a Verification Report in November 2024.

Despite numerous opportunities to comment, the Environmental Protection Department has failed to comment upon this new material and, in the instance of requiring the comments by a specified date, comments were not forthcoming.

That being said, the submitted Verification Report has demonstrated that suitable measures are proposed to ensure that the site can be considered suitable for residential development, in line with the relevant guidance and legislation.

Accordingly, it is considered that the details submitted suitably meet the requirements of the condition, and that condition 7 of H09-0542-19 can be discharged.

Conditions 8, 9 and 10 - Archaeological Scheme

The relevant consultee has stated that the proposal has achieved the aims of conditions 8, 9 and 10, all of which relate to the an archaeological investigation. The relevant consultee has recommended that the conditions 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

The submitted details satisfy conditions 7, 8, 9 and 10 of H09-0542-19. As such, it is recommended that conditions 7, 8 and 9 be discharged.

Recommendation

It is recommended that conditions 7, 8, 9 and 10 of H09-0542-19 be discharged.