

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H11-0306-25 **Applicant:** Seagate Homes

Proposal: Details of Contamination and Remediation Scheme (Conditions 4 and 5 of H11-0842-23) - Allowed on appeal

Location: Four Acres 36 Lime Walk Long Sutton

Terminal Date: 21st May 2025

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution
28 The Natural Environment

National Guidance

National Planning Policy Framework December 2024

Section 15: Conserving and Enhancing the Natural Environment

Representations:

	Object	Support	No Obj.	Comments
SHDC INTERNAL	0	0	0	1
OTHER STATUTORY BODIES	0	0	0	1

CASE OFFICER ASSESSMENT

Proposal

The application as submitted sought approval of the details in respect of Conditions 04, 05 and 10 of application H11-0842-23. Condition 04 requires an assessment of the risks posed by any contamination to be submitted to and approved in writing by the local planning authority. Condition 05 requires the submission and approval of a detailed remediation scheme where land affected by contamination is found (following the risk assessment) which poses risks identified as unacceptable in the risk assessment.

Condition 10 requires the submission and approval of a Biodiversity Net Gain Plan to demonstrate a minimum of 10% net gain in biodiversity on-site, calculated using the Biodiversity Metric 3.1, The Plan is to be supported by a Biodiversity Management Plan setting out how the biodiversity

enhancements will be managed and monitored for the lifetime of the development.

Following the receipt of the consultation response from the Council's Ecologist the application has been amended to omit the discharge of condition 10. The applicant has agreed to amend the description of the development to reflect this change.

For the avoidance of doubt, the application seeks the approval of the details in respect of Condition 04 and 05 of planning permission reference H11-0842-23.

Site Description

The site is an area of agricultural land located to the rear of no.36 Lime Walk, Long Sutton, the site is located within the development limits of the settlement. Planning permission was granted on appeal in October 2024 for the construction of 48 dwellings on the site under application reference H11-0842-23.

History

H11-0842-23: Residential development comprising 48 dwelling. Allowed 25.10.2025

Consultation Responses

Lincolnshire Wildlife Trust

Requests confirmation on whether a BNG matrix has been submitted, without which it is hard to understand the baseline conditions of the site and the proposed improvements.

Environmental Protection Officer

Recommends conditions 04 and 05 are discharged.

BNG Ecologist South East Lincolnshire Councils Partnership

There are some errors within the metric calculations and the proposal will not achieve 10% gains on-site. It is estimated that approximately 2.23 additional habitat units would need to be secured pre-commencement to meet this 10% net gain condition.

Planning Considerations

Condition 04 Wording

No development shall commence until an assessment of the risks posed by any contamination (including gases and water quality) has been submitted to and approved in writing by the local planning authority. This assessment must be undertaken by a suitably qualified contaminated land practitioner, in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency - Land Contamination Risk Management (LCRM) (or equivalent British Standard and Model Procedures if replaced), and shall assess any contamination on the site, whether or not it originates on the site.

The assessment shall include: a survey of the extent, scale and nature of contamination; the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; ground waters and surface waters; ecological systems; and archaeological sites and ancient monuments.

As this permission was granted on appeal there is no reason given for condition 04.

Condition 04 Detail

The Environmental Protection Officer advises they have reviewed Brown Fisher Environmental Reports 4 Planning Phase 1 Land Contamination Assessment Report Ref: 225773CLR dated 27th June 2022. This report concludes that no evidence has been found to suggest that potentially contaminative materials are present beneath the site and no further investigation is necessary.

The Environmental Protection Officer is in general agreement with this report and recommends

condition 04 is fully discharged.

Condition 05 Wording

No development shall take place where (following the risk assessment) land affected by contamination is found which poses risks identified as unacceptable in the risk assessment, until a detailed remediation scheme has been submitted to and approved in writing by the local planning authority. The scheme shall include an appraisal of remediation options, identification of the preferred option(s), the proposed remediation objectives and remediation criteria, and a description and programme of the works to be undertaken including the verification plan. The remediation scheme shall be sufficiently detailed and thorough to ensure that upon completion the site will not qualify as contaminated land under Part IIA of the Environmental Protection Act 1990 in relation to its intended use. The approved remediation scheme shall be carried out and upon completion a verification report by a suitably qualified contaminated land practitioner shall be submitted to and approved in writing by the local planning authority before any individual dwelling is occupied.

As this permission was granted on appeal there is no reason given for condition 05.

Condition 05 Detail

The Environmental Protection Officer advises they have reviewed Brown Fisher Environmental Reports 4 Planning Phase 1 Land Contamination Assessment Report Ref: 225773CLR dated 27th June 2022. This report concludes that no evidence has been found to suggest that potentially contaminative materials are present beneath the site and no further investigation is necessary.

The Environmental Protection Officer is in general agreement with this report and recommends condition 05 is fully discharged.

Condition 10 Wording

Prior to any development ground level, a Biodiversity Net Gain Plan to demonstrate a minimum of 10% net gain in biodiversity on-site, calculated using the Biodiversity Metric 3.1 (or any successor) shall be submitted to, and approved in writing by, the local planning authority. This shall be supported by a Biodiversity Management Plan setting out how the biodiversity enhancements will be managed and monitored for the lifetime of the development. The development shall be undertaken and thereafter maintained in accordance with the approved details.

As this permission was granted on appeal there is no reason given for condition 10.

Condition 10 Detail

The Council's Ecologist advises the applicant has provided a detailed Habitat Management and Monitoring Plan and a sufficient BNG Plan and Assessment, however, there is no mention of biodiversity enhancement measures within the hard landscaping.

In addition, having reviewed the BNG metric submitted the Council's Ecologist advises there are significant issues that require addressing to provide a robust and accurate assessment of the proposal's biodiversity impact. These include trees in the baseline habitat and trees in the post development habitat. When making all of the required corrections in the statutory biodiversity metric, the Ecologist considers the applicant will not be able to achieve the 10% net gain and would be required to secure 2.23 habitat units off-site, pre-commencement along with implementing all biodiversity changes and management described in the BNG assessment and HMMP.

Moreover, there has not been a statutory metric file supplied with the application, which is required to aid interpretation of the biodiversity impacts of the development.

The Council's Ecologist concludes overall the proposal will not achieve 10% net gain and will instead incur an estimated -41% net loss in biodiversity units as calculated by the biodiversity metric. It is therefore recommended that condition 10 should not be discharged.

The applicant was advised that the discharge of condition 10 would be recommended for refusal and was provided with the opportunity to withdraw the approval of the details of this condition from the current application. The applicant agreed to this along with a change in the description of the application to reflect the amendment.

Conclusion

The details submitted in respect of conditions 04 and 05 of application H11-0842-23 are 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.

Recommendation

Conditions 04 and 05 of planning permission H11-0842-23 are discharged.