DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H14-0566-22**	**Applicant:**	**Bellway Homes**
Proposal:	Details of method statement detailing the remediation requirements for land contamination and pollution of controlled waters (Condition 8 part iii of H14-0720-18)		
Location:	Wardentree Lane Pinchbeck Spalding		
Terminal Date:	30th August 2022		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02	Development Management
03	Design of New Development
04	Approach to Flood Risk
30	Pollution

National Guidance

National Planning Policy Framework 2021

NPPF 2021.

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

CONDITION COMPLIANCE. Details of method statement detailing the remediation requirements for land contamination and pollution of controlled waters (Condition 8 part iii of H14-0720-18).

The initial Ground Engineering contamination assessment was relatively preliminary and therefore the subsequent BRD investigation looked to increase the sampling points across the site, and in particular within the former nursery within the western half of the site. The updated contamination assessment presented within the BRD report makes a recommendation for a remediation strategy to be developed to address all of the identified risks.

The purpose of the report is to produce a remediation strategy to be set out a clear methodology for addressing the identified contamination risks and then verifying their remediation.

Further information has been submitted to supplement remediation strategy at the request of the EHO, and form part of the application submission.

Site Description

As host consent although works are underway on the site.

History

H14-0720-18. OUTLINE. Proposed residential development of up to 96 dwellings. APPROVED 08-03-19

H14-0838-21. CONDITION COMPLIANCE. Details of final report in relation to archaeology - Condition 18 of H14-0720-18. APPROVED 12-08-21

H14-0686-21. CONDITION COMPLIANCE. Details of open space, management plan for areas of publicly accessible open space and outdoor play areas and management & maintenance of communal areas (Conditions 5, 6 & 7 of H14-0720-18). APPROVED 2-09-21

H14-0757-21. CONDITION COMPLIANCE. Details relating to Flood Risk Assessment, surface water drainage scheme and foul water drainage strategy (Conditions 9, 13 & 16 of H14-0720-18). APPROVED 2-09-21

H14-0650-21. CONDITION COMPLIANCE. Details of programme for phasing, contamination, construction management plan & prevention of mud deposits on public highway (Conditions 4, 8 parts i & ii, 14 & 15 of H14-0720-18). APPROVED 04-11-21

H14-0862-21. MODIFIED AGREEMENT. Modification of 106 Agreement to vary the mortgagee exclusion clause and the recycling provisions contained in the agreement (relating to H14-0720-18 - Proposed residential development of up to 96 dwellings). APPROVED 13-12-21

H14-0165-21. RESERVED MATTERS. Erection of 96 dwellings and associated works - outline approval H14-0720-18. APPROVED 10-01-22

H14-0420-22. SEC 73 MODIFICATION. Erection of 96 dwellings and associated works - approved under H14-0165-21. Modification of Condition 1 to allow amendments to previously approved plans (relating to a change of brick). APPROVED 15-07-22

H14-0809-22. NON MATERIAL AMENDMENT. Proposed Residential Development of up to 96 Dwellings - approved under H14-0720-18. Addition of condition to remove the Permitted Development Rights to convert the garages into additional living accommodation. APPROVED 16.08.2022

Consultation Responses

SHDC Environmental Protection

Have reviewed the information submitted along with the non-material amendment H14-0809-22 and recommend discharge of Condition 8 part iii of H14-0720-18. Look forward to receipt of the validation in due course.

Planning Considerations

Condition 8 part iii of H14-0720-18

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 SG13 of the South Holland Local Plan, 2006.

The discharge of this condition given the information proposed was initially unacceptable, as the approved garages would not be capable of being habitable accommodation, and the original consent did not restrict the permitted right ability to undertake such conversion in the future. As a result of the submission and approval of the non-material amendment application ref H14-0809-22, described above, a condition removing permitted development rights for conversion has been put in place. This condition is worded as follows:

Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015, (or any Order or Statutory Instrument revoking and re-enacting that Order), the garages hereby approved, as shown by drawing reference 487-SK-05 F shall not be adapted or used for any purpose other than the storage of private motor vehicles and ancillary domestic storage, without the grant of a further planning permission by the Local Planning Authority. The garages hereby approved shall not at any time be used as habitable accommodation.

Reason: To ensure that the Local Planning Authority retains control over the future use of the garages, as the garages do not have sufficient gas protection measures installed to enable domestic use.
This Condition is imposed in accordance with Policies 2, 3 and 30 of the South East Lincolnshire Local Plan, 2019.

As a result, the EHO has agreed that the submitted details are now adequate. It is on this basis that the recommendation is for approval of this partial condition discharge. For completeness the wording of the H14-0809-22 condition is reiterated as a note on this recommended decision notice.

Conclusion

Approve.

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.