DECISION DELEGATED TO HEAD OF PLANNING

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Application No:	**H16-0197-24**	**Applicant:**	**Seagate Homes**
Proposal:	Details of contamination and pollution (Condition 4 of H16-0134-23)		
Location:	Millfield House Spalding Common Spalding		
Terminal Date:	1st May 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2023

Section 11 - Making effective use of land

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

This application is for the discharge of condition 4 relating to planning permission H16-0134-23. Condition 4 relates to:

- Land Contamination/Pollution of controlled waters

Site Description

The site, which has an area of approximately 0.2ha, comprises part of the side and rear garden areas to a large detached frontage property. It would appear that the dwelling, which dates from the 1970's was once associated with an adjoining nursery site, although the sites have been in separate ownerships for several decades The site is adjoined to the south and east by new residential development taking place on the nursery site. The site is located within Flood Zone 2. The safety of the development will be achieved by ensuring the finished floor levels of all the properties are above the relevant predicted flood level.

History

H16-0134-23 - Residential Development (9 Dwellings) - Approved 19-10-23

Consultation Responses

Environmental Protection

Latest Response
I have reviewed the Geodyne limited report 'Millfield House, Spalding Common Spalding 'Ground gas verification plan' project number D44007 dated the 3rd May 2024. I am in agreement with the proposals for ground gas installation at this location and recommend discharge of condition 4 of H16-0134-23in full. Condition 5 remains outstanding and I look forward to receipt of the validation report in due course.

Previous Response
I have reviewed the GeoDyne Ltd report 'Millfield House, Spalding Common, Spalding Environmental Assessment' Project no. D44007 dated 20/2/2024 and am in general agreement with the conclusions. I therefore recommend discharge of condition 4 parts i & ii of H16-0134-23, with part iii and condition 5 remaining outstanding.

The applicant proposes to install ground gas protection measures to CS2 in lieu of undertaking any ground gas monitoring and as per their adjacent development. The details of the proposed installation and proposed validation should be submitted to discharge 4iii

Planning Considerations

The condition requires that the applicant submit the following:

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.

The applicant has submitted a GeoDyne Geotechnical & Environmental Consults report and Environmental Protection have reviewed. The consultee had no issue to the discharge of Parts 'i' & 'ii' following assessment of this document. However stated that part 'iii' remains extant and undischarged. Details of the proposed ground gas installation measures shall form part of the discharge of Part 'iii'.

Subsequently the applicant has submitted a ground gas verification plan. . A supporting document titled 'Ground Gas Verification Plan' by GeoDyne dated 3rd May 2024. The report confirmed that site inspections both during and post installation will take place along with pick tests. Environmental protection have reviewed this and are now in a position to recommend the discharge of condition 4.

On the basis of this report it is considered that the condition is discharged.

Conclusion

Condition 4 attached to planning permission H16-0134-23 are hereby 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.