

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H16-0656-24 **Applicant:** Mr C Bond
Proposal: Details of contamination (Conditions 7ii and 7iii of H16-0423-18)
Location: Tower House 11 Tower Lane Spalding
Terminal Date: 27th September 2024

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework 2023

Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Description of Proposal

This application seeks to discharge conditions 7ii and 7iii of H16-0423-18 relating to details of contamination.

It is acknowledged that the development has commenced without the discharge of this condition; however, in this instance it is not considered that said start is unlawful as these conditions do not go to the heart of the original permission in this case.

Site Description

The site is within the settlement boundaries of Spalding, as outlined within the South East Lincolnshire Local Plan, 2019. It is located approximately 75 metres east of the river Welland. The area is primarily residential in nature. The previous dwelling on the site was almost entirely destroyed in a fire.

Relevant History

H16-1026-17 - Listed Building Consent. Demolish remaining building which has already been largely demolished due to fire- Approved 22/01/18.

H16-0423-18 - Full. Replacement dwelling following permission for demolition of existing dwelling - Approved 27/12/18.

H16-0420-19 - Condition Compliance. Details of Conditions 3, 4, 7 (Part (i)), 8, 13, 14 & 16 of H16-0423-18 - Approved 13/06/19.

H16-1330-21 - Condition Compliance. Details of final report & notification in relation to archaeology (Conditions 5 & 6 of H16-0423-18) - Approved 13/01/22.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

Environmental Protection

"I have reviewed the ground contamination investigation report undertaken by Ground Engineering Limited in June 2024 and would generally agree with their findings in the report. I would agree with the proposed remediation strategy within this report and request to be informed regarding each stage of the works and photographic evidence together with copied waste transfer receipts for all soil and material disposal should be gathered to demonstrate the works. After works have been completed I would ask to see the completed validation report for this development"

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Key Planning Considerations

Conditions 7ii and 7iii

Conditions 7ii and 7iii read as follows:

"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."

The relevant consultee from the Environmental Protection Department has indicated their agreement with the findings of the submitted information, including the proposed remediation strategy. This response has indicated that the submission adequately achieves the aims of the conditions.

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 details are considered to adequately achieve the aims of conditions 7ii and 7iii of H16-0423-18, and therefore, it is recommended that these conditions be discharged with 7iv remaining outstanding.