DECISION DELEGATED TO DEVELOPMENT MANAGER

Application No:	**H16-0684-19**	**Applicant:**	**Kier Living Ltd**
Proposal:	Details of scheme to prevent ingress of hazardous ground gases to buildings, site and floor levels, details of levelling of open space, additional safety measures around swale, design and position of external boxes etc (Conditions 3, 8, 9, 10, 12 and 21 of H16-1117-18)		
Location:	Land To The North Of Witham Road Wygate Park Spalding		
Terminal Date:	4th January 2020		

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 2019

Section 12 - Achieving well-designed places
Section 11 - Making effective use of land
Section 14 - Meeting the challenge of climate change, flooding and coastal change

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Details of scheme to prevent ingress of hazardous ground gases to buildings, site and floor levels, details of levelling of open space, additional safety measures around swale, design and position of external boxes etc (Conditions 3, 8, 9, 10, 12 and 21 of H16-1117-18).

Site Description

The application site was formerly a large, uneven, area of grassed open space located immediately to the east of Wygate Park Academy. Works have now commenced on site. There are residential properties to the south, east and north (off Witham Road, Sharman Way and Tyne Close). An electricity substation and a foul pump station are in the south-western corner of the site.

There are a range of 2, 2.5 and 3 storey properties in the vicinity.

History

H16-0718-19 - Details of landscape management and maintenance schedule, storage and disposal of refuse and recycling, pedestrian access point on northern boundary and provision for cycle storage/parking (Conditions 6, 11, 15 & 16 of H16-1117-18) (approved September 2019)

H16-1117-18 - Hybrid Application: Full Planning Application for 34 Dwellings and Associated Infrastructure together with an Outline Application for a Community Hall and Car Park (approved March 2019)

H16-0716-13 - Residential development comprising 286 dwellings (outline permission H16-0578-01) (approved March 2016)

H16-0578-01 - Outline planning application for the erection of residential estate development, including community centre, public open space/footpaths/cycleways (approved 6 November 2003)

Consultation Responses

Planning Considerations

Conditions 3 and 21 (Contamination) - I have reviewed the BRD Environmental Limited 'Ground Gas Verification Plan Public Open Space, Wygate Park, Spalding' ref BRD241183-OR11-A dated September 2019. I understand that construction at this location has already commenced.
I must note that the quantity of monitoring data provided in the report falls below that which we would usually accept. It would be my preference for further monitoring to be undertaken and /or CS2 gas protection measures to be installed. However, using a lines of evidence approach, reflecting on recently published studies and given that construction of the properties is underway, I am prepared to adopt a pragmatic approach to the situation, being that the best resolution that can be attained at this location is for well verified plots. The verification proposed is acceptable.

Condition 8 (Levels) - The submitted flood risk assessment recommends a minimum floor level of 3.2m AOD for dwellings across the site. The finished floor levels of all dwellings would be above this level and are therefore acceptable.

Condition 9 (Details of levelling of open space) - The soil on the western part of the area of open space would be cut and the eastern part would be filled (and therefore raised) in order to balance the levels. The resulting level would be approx. 4.2m AOD, which would be higher than the proposed ground levels of the residential part of the development but not significantly higher. The difference in levels varies but would appear to be 500mm at most. This is therefore considered acceptable.

Condition 10 - (Swale safety measures) - The existing post and rail fence is to remain along the southern side of the swale. New post and rail fencing would be installed at the eastern and western ends which would extend around the attenuation basin. There is a raised bank on the remaining northern side of the swale. These proposed measures are considered appropriate.

Condition 12 - (Meter boxes etc.) - Revised plans have been received which show electricity meter boxes on side elevations with the exception of the mid-terrace units where this is impractical and they are on the front. Ground mounted gas meter boxes are shown where they are at the front of properties. This is considered 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.

Conclusion

Taking the above into account, it is considered that the submitted details in relation to Conditions 3, 8, 9, 10, 12 and 21 of H16-1117-18 are acceptable.