

DECISION DELEGATED TO HEAD OF PLANNING
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Application No:	H16-0849-24	Applicant:	Mr J Wilson
Proposal:	Details of contamination of land or pollution of controlled waters and management of ecology (Conditions 4 and 10 of H16-0710-22)		
Location:	Land South East Of Littleworth Drove Lucks Bridge		
Terminal Date:	4th December 2024		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019	
01	Spatial Strategy
02	Development Management
03	Design of New Development
28	The Natural Environment
30	Pollution
National Guidance	
National Planning Policy Framework 2023	
National Planning Policy Framework (December 2023)	
Section 2 - Achieving sustainable development	
Section 4 - Decision-making	
Section 5 - Delivering a sufficient supply of homes	
Section 8 - Promoting healthy and safe communities	
Section 12 - Achieving well-designed and beautiful places	
Section 14 - Meeting the challenge of climate change, flooding and coastal change	
Section 15 - Conserving and enhancing the natural environment	

Representations:

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

CASE OFFICER ASSESSMENT
Proposal

This application relates to the submission of details reserved by condition, following the grant of planning approval reference H16-0710-22.

This application seeks approval for details relating to conditions 4 and 10 of planning approval H16-0710-22.

These conditions relate to Details of contamination of land or pollution of controlled waters and Management of ecology.

Site Description

As per host permission.

History

H16-0710-22 - SEC 73 MODIFICATION. Residential Development 9 x 1.5 storey houses - approved under H16-0193-19. Modification of Conditions 13, 14 & 15 relating to access roads and drainage - re-submission of H16-0263-21. APPROVED 30.11.22

H16-0692-22. CONDITION COMPLIANCE. Details of scheme to deal with boundary treatment, means of foul water disposal and storage & disposal of refuse & recycling (Conditions 6, 16 & 19 of H16-0193-19) - re-submission of H16-0254-21. APPROVED 29.11.22.

H16-1179-20. RESERVED MATTERS. Erection of 9 dwellings - outline approval H16-0193-19. APPROVED 19.12.22.

H16-0263-21. SEC 73 MODIFICATION. Residential Development 9 x 1.5 storey houses - approved under H16-0193-19. Removal of Conditions 13, 14 and 15 relating to access roads and drainage. REFUSED. 29-07-21.

H16-0254-21. CONDITION COMPLIANCE. Details of scheme to deal with contamination, boundary treatment, means of foul water disposal and storage and disposal of refuse and recycling (Conditions 4, 6, 16 and 19 of H16-0193-19). REFUSED. 29-07-21.

H16-0193-19. SEC 73 MODIFICATION. Residential development - 9 x 1.5 storey houses - approved under H16-0621-17 - Removal of Condition 4 to remove the 1.000 square metre floor space element of the condition. APPROVED . 23-04-19.

H16-0621-17. Residential development - 9 x 1.5 storey houses. Approved. 11-01-18.

H16-0787-02 - outline application for 63 dwellings. This was a larger site area and was refused on 27 November 2002 due to being in a countryside location, poor visibility to the south due to the positioning of Lucks Bridge causing a highway safety issue, and on flood risk grounds.

Consultation Responses

SHDC Environmental Protection

I have reviewed the phase 1 geo-environmental assessment and phase 2 geo-environmental investigation reports. I agree with the findings of both reports.

The phase 2 geo- environmental investigation report recommends remediation of area where sample HTP01 was taken. I would therefore like to see a copy of the remediation strategy proposed for the area where sample HTP01 which showed an exceedance of benzopyrene and dibenzanthracene.

Planning Considerations

The application is to discharge conditions 4 and 10 of planning approval H16-0710-22.

These conditions relate to Details of contamination of land or pollution of controlled waters and Management of ecology.

Condition Details

Condition 4 - Contamination

Condition 4 of planning approval reference H16-0710-22 states the following:

"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 Policies 2 and 3 South East Lincolnshire Local Plan 2019 and national guidance contained in the National Planning Policy Framework, 2021".

This submission of details application was accompanied by two written reports, in the form of a Phase 1 geo-environmental assessment and a Phase 2 geo-environmental investigation report.

Consultation was sought from SHDC's Environmental Protection Services, given the nature of the condition. This consultation concluded that, whilst the detail of the reports were assessed, the phase 2 geo-environmental investigation report recommended remediation of an area where sample 'HTP01' was taken.

As such, a proposed remediation strategy for this area, where sample HTP01 showed an exceedance of benzopyrene and dibenzanthracene, would be required. As such, the details in this instance are insufficient to be considered acceptable.

The information submitted to support the discharge of condition 4 is not sufficient to ensure the protection of the public and end users of this development proposal.

As such, the information provided is not considered to sufficiently provide the details required and sought by Condition 4.

Condition 10 - Ecology

Condition 10 of planning approval reference H16-0710-22 states the following:

"Prior to the commencement of the development, a detailed plan setting out proposals for the management of the ecology of the site shall be submitted to and approved in writing by the Local Planning Authority. The plan shall include proposals for the protection of wildlife and its habitat within the site, appropriate mitigation measures, a programme for the implementation, proposals for longer term arrangements and supervision by a qualified ecologist.

Reason: In the interests of the protection of the ecology and associated habitat of the site. 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 28 South East Lincolnshire Local Plan 2019 and national guidance contained in the National Planning Policy Framework, 2021".

The details submitted in respect of Condition 10 comprise an 'Ecology management Scheme, comprising a single written list of proposed biodiversity and ecological betterments proposed for the site, along with small explanatory text outlining the 'Precautionary working practices and enhancement measures for bats', which was accompanied by a 'Procedure to follow in the event of discovering bats on site' list, in bullet point form.

These details comprised no further detail, simply stating modest ecological/biodiversity measure being put in place, with additional clarification regarding procedures should there be a presence of bats on site.

In this regard, the submission did not comprise a single plan, nor was any detail provided with regard to the management, including ongoing management, of ecology on site. The statement fails to provide numerous elements specifically stated and sought through condition 10. Furthermore, the statement did not provide details of the individual or organisation whom prepared the statement; as such, it is not known if a qualified ecologist produced or had involvement within such a statement; ; in any event, no details have been provided demonstrating 'supervision by a qualified ecologist', as specifically required by the condition.

As such, the information provided is not considered to sufficiently provide the details required and sought by Condition 10.

Conclusion

In conclusion, for the reasons outlined above, it is considered that the details submitted in relation to Condition 4 and 10 comprise a lack of adequate information and comprise unacceptable detail.

As such, it is the recommendation that these conditions are refused and not 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.