DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H17-0795-22**	**Applicant:**	**Kirk Homes Ltd**
Proposal:	Details of contamination of land or pollution of controlled waters. (Condition 3 parts (ii) to (iii) of H17-0005-21)		
Location:	Smithfield Scoldhall Lane Surfleet		
Terminal Date:	21st February 2023		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

01	Spatial Strategy
02	Development Management
03	Design of New Development
07	Improving South East Lincolnshire's Employment Land Portfolio
30	Pollution

National Guidance

National Planning Policy Framework 2021

6 - Building a strong, competitive economy
12 - Achieving well-designed places

Representations:

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

CASE OFFICER ASSESSMENT

PROPOSAL

This is a condition compliance application for details of contamination of land or pollution of controlled waters. (Condition 3 parts (ii) to (iii) of H17-0005-21) on land adjacent Smithfield, Scoldhall Lane, Surfleet.

SITE DESCRIPTION

The proposal site is located to the north of the Smithfield and Spalding Farm Shop, and is outside of defined settlement limits. The surrounding area is predominately rural and characterised by

dwellings of varying ages and designs. The site is in Environment Agency Flood Zone 3, and not subject to increased hazard or depth on the 2115 South Holland Strategic Flood Risk Mapping.

RELEVANT HISTORY

H17-0139-98

Agricultural Determination - Alteration of existing farm building, insert door in western elevation & door & window in southern elevation - Refused - 11 March 1998.

H17-1225-98

Full - Erect cold store and toilet facilities etc - Approved - 10 February 1999.

H17-1240-98

Full - Siting of mobile home - Approved - 10 February 1999.

H17-1014-09

Full - Extension to farm shop - Approved - 15 February 2010

H17-0357-10

Non-Material Amendment - Extension to farm shop - approved under H17-1014-09 - amendments to doors, windows and roof lights - Approved - 14 May 2010.

H17-0005-21

Full - Demolish existing farm buildings, remove concrete hardstanding and erection of new farm shop store, contractors office and storage yard - Approved - 29 March 2021.

H17-1001-21

Section 73 Modification - Demolish existing farm buildings, remove concrete hardstanding & erection of new farm shop store, contractors office & storage yard - approved under H17-0005-21. Modification of Condition 4 to read 'no storage of materials, machinery, vehicle, waste or other items shall take place outside the buildings on the front of the site - Approved -01 December 2021.

H17-1294-21

Condition Compliance - Details of scheme to deal with contamination (Condition 3 of H17-0005-21) - Approved - 01 February 2022.

H17-0554-22

Modified Agreement - Modification of 106 Agreement relating to occupation of dwelling (planning approval H17-0725-03) - Approved - Currently undecided.

CONSULTATION RESPONSES

South Holland District Council - Environmental Protection

"I have reviewed the Elemental GI Ltd letter report ref E22196/GRL dated 7/10/22 and am in general agreement with the findings. I therefore recommend discharge of parts i-iii of condition 3 of H17-0005-21, with part iv remaining outstanding. The report didn't specify the verification, but did state that the applicant would be using specialist installers. Their report plus the delivery notes for the membrane should be submitted in due course."

PLANNING CONSIDERATIONS

The Environmental Protection Officer has reviewed the submitted information regarding ground contamination, ground gas and asbestos removal. They are now content to recommend discharge of parts i to iii of Condition 3 of application H17-0005-21. Part iv remains outstanding.

PLANNING BALANCE

It is considered that the relevant information has been submitted to satisfactorily discharge parts i to iii of Condition 3 of H17-0005-21. A separate condition compliance application will be made to address part iv of Condition 3.

CONCLUSION

This application is recommended for approval.

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.