

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H17-1283-21 **Applicant:** Mr T Forman

Proposal: Details of scheme to deal with contamination & boundary treatment (Conditions 4 ((i), (ii)) & 5 of H17-0346-19)

Location: Land Between 12 Flaxmill House & Old Lammas Reservoir Road Surfleet Seas End

Terminal Date: 14th March 2022

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

02 Development Management
03 Design of New Development
30 Pollution

National Guidance

National Planning Policy Framework 2021

Section 11 - Making effective use of land
Section 12 - Achieving well-designed places
Section 15 - Conserving and enhancing the natural environment

Representations:

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

CASE OFFICER ASSESSMENT

Proposal

Details of scheme to deal with contamination & boundary treatment (Conditions 4 & 5 of H17-0346-19).

Site Description

As H17-1284-21.

History

H17-1284-21 - Reserved Matters - Erection of 2 Dwellings - outline approval H17-0346-19 (approved February 2022)

H17-0346-19 - Outline - Residential development - 2 plots (approved May 2019)

Consultation Responses

SHDC Environmental Protection - I have reviewed the Chevin Geoenviro Associates Limited reports 'Land at Reservoir Road, Surfleet, Spalding Phase 1 Desk Study Report dated December 2019 ref C0362' & 'Land at Flaxmill House, Surfleet, Spalding Phase 2 Site Investigation Report dated November 2020 ref C0362' and recommend discharge of parts i & ii of condition 4 of H17-0346-19. The report recommends remediation is required to ensure a safe development, and a detailed remediation method statement should be prepared and submitted for approval. Depending on the remedial solution selected, guidance given in the YALPAG technical guidance may be of assistance, which can be downloaded from <https://www.sholland.gov.uk/article/11653/Planning-application-consultations>.

Planning Considerations

Condition 4 (contaminated land) - SHDC's Environmental Protection Officer has recommended that parts i & ii of this condition be discharged, with the requirement for a remediation method statement and verification report remaining outstanding.

Condition 5 (boundary treatment) - The rear boundaries would be defined by 1.2m high post and rail fencing to benefit from views of the fields beyond. 2m high feather edge fencing is indicated to the west of Plot 1 and in between Plots 1 and 2, ending at the front of each dwelling. The fence to the western side of Plot 1 will change to 1.2m high post and rail from its front elevation to the front of the garage. The existing feather edge fencing is being relied upon on the eastern boundary. The southern boundary would remain open. These arrangements are acceptable in visual terms, allowing some openness to remain to the front.

In terms of residential amenity - The patios to the rear of dwellings would be raised by approx. 20mm or less and the remaining level of the rear garden would remain as existing. On that basis, 2m high fencing to the central and western boundaries is appropriate. No new boundary treatment is proposed on the eastern boundary but the existing boundary treatment to the rear of the neighbouring property is either approx. 1.8m fencing or where it is lower there is evergreen hedging that appears to be over 2m in height. This is of a sufficient height given the proposed levels and the fact that views from the patio towards the neighbouring dwelling would largely be obscured by the intervening outbuilding.

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 Conditions 4 & 5 of H17-0346-19 can be discharged.