DECISION DELEGATED TO HEAD OF PLANNING

Application No:	**H21-0283-25**	**Applicant:**	**K Fathers & J Hallifax**
Proposal:	Details of external materials & contamination of land or pollution of controlled waters (Conditions 3 & 5 of H21-0785-24)		
Location:	Rectory Farm Rectory Road Tydd St Mary		
Terminal Date:	16th May 2025		

Planning Policies

South East Lincolnshire Local Plan - Adopted: March 2019

30 Pollution

National Guidance

National Planning Policy Framework December 2024

National Planning Policy Framework (December 2024)

Section 11 - Making effective use of land
Section 14 - Conserving and enhancing the natural environment

National Guidance

Representations:

	Object	Support	No Obj.	Comments
HIGHWAYS & SUDS SUPPORT	0	0	0	1
NORTH LEVEL INTERNAL DRAINAGE BOARD	0	0	0	1
SHDC INTERNAL	0	0	0	2

CASE OFFICER ASSESSMENT

Proposal

This application seeks to discharge conditions 3 and 5 of permission H21-0785-24.

Initially, the application also sought consent to discharge condition 4; however, condition 4 is a compliance condition that requires the development to be carried out in accordance with the approved Flood Risk Assessment. As such, this condition does not need to be discharged and has been removed from the submission.

Permission H21-0785-24 granted consent for two dwellings on land at Rectory Farm, Tydd St Mary.

Site Description

The site comprises land to the north-east of Rectory Road, within the settlement boundary of Tydd St Mary. The site is located within the Tydd St Mary Conservation Area. There are various residential dwellings located around the site, including various detached dwellings along Rectory Road and terraced properties to the north-west along Thorpe Close.

Relevant Planning History

H21-1394-88: (Outline) Proposed 4 no. building plots - approved 11 January 1989

H11-1862-88: (Outline) Dwelling and garage with haulage yard' - approved 12 October 1989

H21-0477-91: (Section 73) Modification of condition 5 (estate road to' private drive) re. 4 building plots H21/1394/88' - approved 24 July 1991

H21-0785-24: (Full Application) Erection of two dwellings on former farm/depot yard - approved 12 February 2025

Consultation Responses

North Level District Internal Drainage Board: No objections.

Lincolnshire County Council - Highways and SUDS: No objections. These conditions were not requested by Lincolnshire County Council, it is for the LPA the assess/approve.

Conservation Officer: No objections - materials appear fully sympathetic to the setting.

Environmental Protection: I have reviewed Lucion Ground Engineering Limited Tier 1 Preliminary Risk Assessment report Reference No: 128293 Dated February 2025. This report concluded that due to previous land use, contamination might be present on site. Therefore, a further tier 2 investigation is required. I am in general agreement with these findings. Subsequently I reviewed Lucion Ground Engineering Limited Tier 2 Contamination Assessment Report Reference No: 128775 Dated March 2025. This report concluded that concentrations of lead, benzopyrene, benzofluoranthene and dibenz and TPH and chrysotile asbestos fibres/ clumps across the southern half of the site would make this unsuitable for the end user. I therefore agree with this report's recommendation that remediation is undertaken to make this site suitable for the end user. I therefore can recommend that condition 5 (i and ii) is partially discharged. In order to discharge the whole condition 5 (iii) a copy of the written statement detailing the remediation strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion to be submitted and approved by LPA.

Key Planning Considerations

Condition 3 reads as follows:

"Before the commencement of the development hereby permitted above slab level, a schedule of external materials shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of the proposed brickwork, roof materials, and window/door frames. The development shall thereafter be constructed in accordance with the materials so approved.

Reason: To ensure that the Local Planning Authority retains control over the external materials of construction of the development in the interests of the appearance of the development, and the character and visual amenity of this part of the Conservation Area in which it is set.
This Condition is imposed in accordance with Policies 2, 3 and 29 of the South East Lincolnshire Local Plan, 2019 and Sections 12 and 16 of the National Planning Policy Framework, December

2024.

The submitted planning statement sets out the proposed external materials for the development. The site is within a Conservation Area and as such, the council's conservation officer has been consulted on the proposals. The conservation officer has set out that the proposed materials are suitable.

As such, condition 3 can be discharged.

Condition 5 reads as follows:

"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).

The scheme shall include all of the following measures unless the LPA dispenses with any such requirement in writing:
i) A preliminary risk assessment (desk study) shall be 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). A full copy 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, an exploratory 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 end use. A full copy 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 strategy for land contamination and/or pollution of controlled waters affecting the site and a timetable for their completion shall be submitted to and approved in writing by the LPA. This shall include details of the proposed verification plan including compliance criteria and monitoring details.

No deviation shall be made from this scheme without the express written agreement of the LPA. 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 suspected contamination has been submitted to and agreed in writing by the LPA.

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 Policy 30 of the South East Lincolnshire Local Plan, 2019.

The council's environmental protection team have reviewed the submitted information and agreed with the recommendations within the submitted reports. Remediation is recommended to ensure that contamination risks are appropriately managed. Therefore, it is considered appropriate to part discharge condition 5, by discharging parts i and ii.

Part iii of the condition will need to be discharged once a written statement detailing the remediation strategy for land contamination has been submitted and agreed.

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 address the requirements of condition 3 and parts i and ii of condition 5 from permission H21-0785-24.

Recommendation

Discharge condition 3 and part discharge condition 5 (parts i and ii only).