

DECISION DELEGATED TO HEAD OF PLANNING

Application No: H23-0870-24 **Applicant:** LA Rose Homes Ltd

Proposal: Details of verification report & water consumption (Conditions 7 & 9 of H23-0607-22)

Location: 257 High Road Whaplode Spalding

Terminal Date: 11th December 2024

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 2023

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 seeks to discharge Conditions 7 and 9 of H23-0607-22 relating to details of verification report and water consumption levels.

Site Description

The site currently forms part of the residential garden to Charnwood, 259 High Road, Whaplode and is manicured lawn. The eastern boundary is currently made up of a 2.1m high brick wall which extends across the front boundary.

History

H23-0485-19 - Residential development - single plot - Approved 18 July 2019.

H23-0607-22 - Erection of Dwelling & Detached Garage - Approved 25 August 2022.

H23-0541-23 - Details of external materials, proposed soakaway system, contamination of land or pollution of controlled waters and ecological biodiversity measures. (Conditions 4, 5, 6 and 8 of H23-0607-22) - Approved 13th November 2023

H23-0585-24 - Details of verification report (Condition 7 of H23-0607-22) - Refused 24th September 2024.

Consultation Responses

The responses received from consultees during the initial consultation exercises, which can be viewed in their entirety through the South Holland website, can be summarised as follows:

SHDC Environmental Protection

Initial comments, received 21/11/24:

"Following a review of the phase 4 verification report we are not in a position to discharge the condition at this time. This phase 4 verification report shows photographs of the membrane and shows that this is not sealed along the edges. In accordance with the phase 3 remediation options appraisal The installation of the sub-floor void and membrane beneath the dwelling will be verified through a visual inspection in accordance with CIRIA C735 and YALPAG Technical Guidance. I would like more information with details of the membrane and that this has been properly sealed along the edges and across wall cavity.

I would also like to see the following:

- Amount of waste soils removed.
- Amounts of clean soils imported to site.
- Chemical test data regarding the imported soils"

Revised comments, received 04/12/24 following the receipt of further information.

"Following review of the Phase 4 Verification Report by Oakshire Environmental, photo of sealed membrane and the soil contamination test by Oakshire Environmental I am satisfied that the site has been correctly remediated and request that conditions 6 and 7 are fully discharged"

Public Representations

This application has been advertised in accordance with the Development Procedure Order and the Council's Statement of Community Involvement. In this instance, no letters of representation have been received.

Planning Considerations

Condition 7

Condition 7 reads as follows:

"If contamination of land and/or pollution of controlled waters has been identified as a result of investigation undertaken in accordance with Condition 6 above and remediation is required, a full copy of a verification report shall be submitted to, and approved in writing by, the Local Planning Authority prior to the first occupation of the development. 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 objectives and criteria 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.

Reason: To ensure the satisfactory remediation of contaminated land and/or waters.
This Condition is imposed in accordance with Condition 30 of the South East Lincolnshire Local Plan, 2019."

The relevant consultee from the SHDC Environmental Protection Department has recommended the discharge of the condition, stating that they are satisfied the land has been correctly remediated. As such, it is recommended that Condition 7 be discharged.

It is of note that the consultee has referenced Condition 6 as well, which also related to contaminated land. Condition 6 has already been discharged in full under H23-0541-23, and therefore, it is considered unnecessary to reconsider this aspect.

The submitted details have demonstrated that water consumption would conform the requirements of the condition. Therefore, the requirements of Condition 9 have been met. It should be noted that Condition 9 cannot be discharged in the traditional sense, and therefore, the following decision notice primarily serves as acknowledgement by the LPA of receipt of the information, as opposed to a formal discharge of condition.

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

Condition 7 of H23-0607-22 can be discharged. The LPA acknowledge the receipt of the required details relating to Condition 9.