



Appeal Decision

Site visit made on 8 December 2025

by **C Housden BSc(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 04 FEBRUARY 2026

Appeal Ref: APP/J1915/W/25/3374311

10A Southmill Road, Bishop's Stortford, Hertfordshire CM23 3DP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant consent, agreement or approval to details required by a condition of a planning permission.
 - The appeal is made by Mrs Shirley Watson against the decision of East Herts District Council.
 - The application ref X/25/0183/CND sought approval of details pursuant to condition no 6 of planning permission ref 3/17/0652/FUL (appeal ref APP/J1915/W/17/3177792), granted on 9 November 2017.
 - The application was refused by notice dated 7 May 2025.
 - The development proposed is "demolition of existing industrial building and erection of a 1 bedroom dwelling".
 - The details for which approval is sought relates to condition no 6 which is set out as follows:
Prior to the occupation of the dwelling, a verification report shall be submitted to and approved in writing by the local planning authority to demonstrate compliance with the approved verification plan and any additional measures subsequently agreed in writing by the local planning authority with reference to previously unidentified contamination.
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Decision

1. The appeal is dismissed.

Background and Main Issue

2. Conditional planning permission was granted for the demolition of an industrial building and erection of a one-bedroom dwelling¹. This was subject to condition 5 which required the submission of a verification plan specifying the measures to be taken to remediate the site to ensure that any contamination found to be present was removed or rendered harmless. A verification plan was approved by a letter dated 22 March 2018² and condition 5 was discharged.
3. Condition 6 was also imposed by the planning permission which requires that prior to the occupation of the dwelling, a verification report is submitted that demonstrates the works were undertaken in compliance with the approved verification plan.
4. The evidence shows that a considerable amount of time has passed between the approval of condition 5, the initial works to remove the contamination from the appeal site and the full submission of the evidence to discharge condition 6. The appellant has highlighted that much of the guidance and policy which was in place at the time of the approval of condition 5 and initial works has now been replaced and that current requirements should not be applied to previously undertaken works. The more recent guidance and legislation, as referred to in the evidence,

¹ Appeal ref APP/J1915/W/17/3177792

² Under application ref X/18/0087/CND

are material considerations to this current condition discharge application. However, the scope of condition 6 is clearly limited to a demonstration of compliance with the previously approved verification plan and I have therefore considered them within this scope and context.

5. The main issue is therefore whether the submitted information is sufficient to demonstrate compliance with the approved verification plan and discharge condition 6.

Reasons

6. A Compliance Report for Remediation Measures (the Report) has been submitted by the appellant which seeks to demonstrate works were undertaken in compliance with the approved verification plan.
7. Section 2 of the verification plan addresses the removal of the contaminant source. It sets out there were no viable methods to remove the contaminants identified within the soil or to reduce them to a concentration of acceptable levels. As such, the verification plan proposed the removal of made-up ground until there was no further evidence of contamination to a maximum depth of 600mm in the rear courtyard area.
8. The Report simply states that soil to a depth of approximately 400 – 500mm was removed and that there were no further signs of contamination. The appellant contends that they consider written evidence to be more accurate than photographic evidence. However, the statement is not supported by any qualitative or quantitative information that would provide evidential verification that such works were undertaken. Condition 6 requires that compliance with the verification plan is demonstrated. An assertion that the works took place is of insufficient detail to demonstrate that the contaminant source was adequately removed from the site in accordance with the approved verification plan. It therefore follows that the Report does not adequately demonstrate that section 2 of the verification plan has been complied with.
9. Section 3 of the Plan relates to unforeseen contamination and the requirement to implement and maintain a watching brief. It required the site supervisor to inspect during the reduction of the ground levels and the foundation works for any ash and clinker, unusual ground conditions and visual or olfactory evidence of hydrocarbon contamination. It is stated within the Report that no unforeseen contamination was seen by the supervisor. However, the Report fails to demonstrate its position that there was no unforeseen contamination. An assertion is insufficient evidence to demonstrate that works were undertaken in accordance with section 3 of the verification plan.
10. Section 4 of the approved plan required that, should temporary storage be required before transportation of the contaminated material, it should be stored within the site on a geo-membrane and covered until it was ready for loading. Whilst the evidence shows the material was covered, it is unclear whether it was stored on a geo-membrane as required by the Plan. The appellant contends that the Report stating the supervisor ensured the requirements of the verification plan was complied with is sufficient evidence to demonstrate that the soils sat on a protective membrane. However, this is also an assertion which does not utilise evidence to demonstrate compliance. As such, based on the available evidence I

cannot conclude that this section of the verification plan was complied with during the works.

11. In relation to the transportation of the waste, section 5 of the verification plan required that only a licensed waste carrier should be employed to transport the contaminated waste from the site. A Waste Transfer Certificate³ accompanies the report which I am satisfied demonstrates that a licenced waste carrier was employed. The evidence therefore shows that this element of the verification plan was complied with.
12. Section 6 of the approved verification plan required that excavated contaminated soils are disposed of separately at a landfill or licenced waste facility. The Waste Transfer Certificate and the Report confirms that the contaminated material was taken to such a facility. The evidence therefore demonstrates that this element of the Plan was complied with.
13. However, section 6 also required that the remediation supervisor maintain a log of the approximate volumes or tonnage of the waste that leaves the site. Whilst the depth has been provided, the volume or tonnage has not, and therefore the evidence does not comply with this element of the Plan. Furthermore, section 6 also required that the remediation supervisor advise the Council that the remediation had been completed and to invite the Council to visit after completion of the works. I have no evidence before me demonstrating that the remediation supervisor advised the Council that the remediation had been completed and invited the Council to visit. The evidence therefore does not show that this element of the plan was complied with.
14. The Report confirms that no inert soil was, or is proposed, to be imported. The evidence therefore shows that Section 7 of the Plan has been complied with.
15. Section 8 of the Plan required a combined approach to supervision between the remediation supervisor and local authority. This is stated to enable a satisfactory remediation verification report to be produced and to minimise potential delays due to any uncertainty on how to carry out the remediation. Based on the evidence before me, it is unclear whether this approach was taken by the parties and I therefore cannot conclude that the evidence shows that this part of the plan was complied with.
16. Section 9 of the verification plan required the supervisor to keep records that are sufficient to provide an accurate account of how the remediation works were undertaken. I have not been presented with any such records, and I have found much of the evidence of the Plan to be deficient in detail, as previously described.
17. Section 9 also has an overarching requirement of ensuring the works were undertaken in accordance with the approved plan itself. Given my findings above the evidence fails to demonstrate that works were undertaken in accordance with the approved verification plan. It therefore follows that the evidence is insufficient to discharge condition 6.
18. No development plan policies have been referred to by the Council in its reason for refusing to discharge the condition or within the Council's statement of case, nor were any sited in the original imposition of the condition.

³ Dated 10 September 2018

19. In any case, the evidence fails to demonstrate that the works were undertaken in accordance with the approved verification plan. This results in conflict with paragraph 196 of the National Planning Policy Framework which requires adequate site investigation information to be available to inform the assessment of whether a site is suitable for its proposed use taking account of ground conditions.

Other Matters

20. The appellant contends that when the Council previously refused to partially discharge condition 6⁴, it only raised concern regarding the timing of the submission, rather than the content of the report itself which covered the removal aspect of the works. However, the evidence before me is not sufficiently clear to definitively conclude that the Council considered the content acceptable at this time, despite refusing to discharge the condition. In any case, I have assessed the appeal on its individual merits based on the evidence submitted. The existence of this previously refused application does not convince me that the submitted evidence is acceptable to discharge the condition. Furthermore, I have also identified deficiencies with the Report which were not part of the refused condition discharge application meaning that they are not directly comparable.
21. The Council has raised concerns regarding the competency of the author of the report. However, as I have found that the content of the Report is insufficient to discharge the condition, I do not need to reach a finding on this matter as it does not affect the outcome of the appeal.
22. It has been brought to my attention that the appeal property would meet the mobility needs of the appellant and that condition 6 is currently restricting its occupation. However, as this is a personal benefit it carries limited weight and would not justify the lack of adequate evidence to discharge the condition.

Conclusion

23. For the reasons given above the appeal should be dismissed.

C Housden

INSPECTOR

⁴ Ref X/18/0500/CND dated 26 November 2018