

Mr Chris Nash
South Derbyshire District Council
Development Control
Civic Offices Civic Way
Swadlincote
Derbyshire
DE11 0AH

Our ref: LT/2019/124631/01-L01
Your ref: DMPA/2019/0948
Date: 24 September 2019

Dear Mr Nash

OUTLINE APPLICATION (MATTERS OF ACCESS TO BE CONSIDERED NOW WITH MATTERS OF LAYOUT, SCALE, APPEARANCE AND LANDSCAPING RESERVED FOR LATER CONSIDERATION) FOR THE ERECTION OF UP TO 100,000SQM OF COMMERCIAL FLOORSPACE (USE CLASSES B2 (GENERAL INDUSTRIAL) AND B8 (STORAGE AND DISTRIBUTION) WITH ANCILLARY B1(A) OFFICES) ALONG WITH ASSOCIATED LANDSCAPING, SURFACE WATER DRAINAGE INFRASTRUCTURE AND ACCESS AT AXIS 50 (FORMERLY KNOWN AS BURNASTON CROSS) LAND AT SK2929 1430, ETWALL ROAD, WILLINGTON, DERBY.

Thank you for referring the above application and which was received on 05 September 2019.

We have reviewed the submitted documents and have the following comments to make from the perspective of the protection of controlled waters.

The site is situated in a sensitive location with respect to controlled waters and due to the historic extraction and landfilling activities there is an absence of consistent drift geology strata across the site. The solid geology underlying the site comprises Gunthorpe Member Formation (mudstone, a Secondary B aquifer). An on-site drain is identified running along the northeast boundary of the site and the Willington / Sands Brook was identified 30m southwest of the site.

The historic site use comprises a sand and gravel quarry, which was landfilled with waste and PFA. An off-site historic landfill has also been identified to the southwest of the site containing industrial waste and inert waste known to be present which may be potential sources of contamination to controlled waters.

Environment Agency position

We have no objection to the proposals being granted permission as long as the

Environment Agency
Trentside Offices Scarrington Road, West Bridgford, Nottingham, NG2 5FA.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

following Conditions are attached to any permission granted.

Condition

Prior to each phase of development approved by this planning permission no development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1) A preliminary risk assessment which has identified:

all previous uses

potential contaminants associated with those uses

a conceptual model of the site indicating sources, pathways and receptors

potentially unacceptable risks arising from contamination at the site.

2) A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.

3) The results of the site investigation and detailed risk assessment referred to in (2) and, based on these, an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.

4) A verification plan providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (3) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

Any changes to these components require the express written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

Note regarding the above Condition – additional information requested.

The submission indicates that a site investigation and risk assessment has been undertaken, however a number of historic reports are listed on page 1 of the report which we have not previously been provided with copies of to review:

1. Tamdown Regeneration, on behalf of KHK Group, Site Investigation and Environmental Risk Assessment Report, reference TR.R062.2.2.1.EG, Issue 3 dated July 2004; and
2. Axis 50 by BWB Consulting Ltd, Phase 1 Geo-environmental Assessment, reference BUR-BWB-ZZ-XX-RP-YE-0001_DS_P1, dated March 2018.

We request that copies of the above reports are provided to us for review as part of any future submission.

Condition

Prior to each phase of development being occupied/brought into use a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the local planning authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate

that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition

No drainage systems for the infiltration of surface water to the ground are permitted other than with the written consent of the local planning authority. Any proposals for such systems must be supported by an assessment of the risks to controlled waters. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

Note regarding the above Condition – additional information requested.

We note that within the current submission no surface water sampling for the contaminants of concern appears to have been undertaken at the on-site drain or the Willington / Sands Brook and no justification has been provided to explain why this has not been undertaken. We request that further information is provided in relation to the surface water receptors at the site and in close proximity to the site as part of any future submission.

Condition

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason

Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Therefore it should be demonstrated that any proposed piling will not result in contamination of groundwater. Due to the identified potential for Unexploded Ordnance (UXO) on Site A, a piling risk assessment and geophysical survey to confirm the encountered ground conditions is considered to be required.

Condition

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the local planning authority) shall be carried out until the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination

shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

Reason

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition

The development hereby permitted shall not be commenced until such time as a scheme to install oil and petrol separators has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants. This is in line with paragraph 170 of the National Planning Policy Framework.

Any facilities, above ground, for the storage of oils, fuels or chemicals shall be sited on impervious bases and surrounded by impervious bund walls. The volume of the bunded compound should be at least equivalent to the capacity of the tank plus 10%. All filling points, vents, gauges and sight glasses must be located within the bund. The drainage system of the bund shall be sealed with no discharge to any watercourse, land or underground strata. Associated pipework should be located above ground and protected from accidental damage. All filling points and tank overflow pipe outlets should be detailed to discharge downwards into the bund.

Informatives

Land Contamination

We recommend that the developer undertakes any further works in line with the guidance provided within "Land Contamination Risk Management" (which is replacing 'CLR11 Model Procedures' which is due to be withdrawn at the end of 2019), 'Guiding Principles for Land Contamination' and 'Groundwater Protection: Principles and Practice' which are available on our website at the following addresses:

<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>
<https://www.gov.uk/government/collections/land-contamination-technical-guidance>.

Where deep foundations are proposed we recommend the developer follows the guidance set out within our document 'Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination' which is available on our website at the following address:

<http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>.

Waste to be reused on site

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at <https://www.gov.uk/government/organisations/environment-agency> for further guidance.

Waste to be taken off site

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

Duty of Care Regulations 1991

Hazardous Waste (England and Wales) Regulations 2005

Environmental Permitting (England and Wales) Regulations 2010

The Waste (England and Wales) Regulations 2011.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically in line with British Standards BS EN 14899:2005 'Characterisation of Waste - Sampling of Waste Materials - Framework for the Preparation and Application of a Sampling Plan' and that the permitting status of any proposed treatment or disposal activity is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

If the total quantity of waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

I have sent a copy of this letter to the agent.

We request a copy of the decision notice of any permission granted.

Yours sincerely

Mr Nick Wakefield
Planning Specialist

Direct dial 02030 253354

Direct e-mail nick.wakefield@environment-agency.gov.uk

cc Marrons Planning