

Cumberland Council
Development Control
The Copeland Centre Catherine Street
Whitehaven
Cumbria
CA28 7SJ

Our ref: NO/2021/113990/02-L01
Your ref: 4/21/2432/0F1
Date: 15 December 2023

Dear Sir/Madam

HYBRID APPLICATION SEEKING FULL PLANNING PERMISSION FOR THE ERECTION OF 139 RESIDENTIAL DWELLINGS (C3), NEW VEHICULAR ACCESSES OFF HIGH ROAD, PUBLIC OPEN SPACE AND ANCILLARY INFRASTRUCTURE AND OUTLINE PLANNING PERMISSION FOR RESIDENTIAL DEVELOPMENT UNITS, RETAIL (E(A,B,C,E,F), F2(A) AND ANCILLARY INFRASTRUCTURE WITH ALL MATTERS RESERVED OTHER THAN ACCESS.

FORMER MARCHON CHEMICAL FACTORY, HIGH ROAD, WHITEHAVEN

Thank you for re-consulting us on the above planning application.

Environment Agency position

Sections of the Part2A contaminated land Remediation Statement written by URS consultants , have been included with this planning submission. These documents are useful to reference as third party information, but further ground investigation and risk assessment will be required prior to development. to address site specific development plans and the current land quality status .

The part2A documentation submitted with the application is insufficient to accept unconditional development in isolation of supporting documents/work. A revised risk assessment is required for planning purposes. This is recognised in the document submitted i.e. Planning Statement September 2021

"p.23. Updated investigations are therefore taking place on the site, with a view to developing a comprehensive remediation strategy that can be costed and fed into the viability statement for the site. This will determine the planning gain for the site as well as form part of the planning weight balance. This exercise is ongoing and may require an update to this document and others once complete."

Therefore, we request that any subsequent approval is conditioned to address the

Environment Agency
Ghyll Mount (Gillan Way) Penrith 40 Business Park, Penrith, Cumbria, CA11 9BP.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

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following issues:

Condition – Remediation Strategy

No development approved by this planning permission shall commence until a remediation strategy to deal with the risks associated with contamination of the site in respect of the development hereby permitted, has been submitted to, and approved in writing by, the local planning authority. This strategy will include the following components:

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 the 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 written consent of the local planning authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, and is not put at unacceptable risk from or adversely affected by, unacceptable levels of water pollution in line with paragraph 174 of the National Planning Policy Framework.

Condition - SuDS Infiltration of surface water into ground

The previous use of the proposed development site as chemical works presents a risk of contamination that could be mobilised by surface water infiltration from the proposed sustainable drainage system (SuDS). Conceptual models have identified pollutant linkages to controlled waters.

In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location. We therefore request that the following planning condition is included as part of any permission granted. Without this condition we would object to the proposal in line with paragraph 170 of the National Planning Policy Framework because it cannot be guaranteed that the development will not be put at unacceptable risk from, or be adversely affected by, unacceptable levels of water pollution.

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, and 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.

Waste on site – advice to applicant

The [CL:AIRE Definition of Waste](#): Development Industry Code of Practice (version 2) provides operators with a framework for determining whether or not excavated material arising from site during remediation and/ or land development works is waste or has ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used on-site providing they are treated to a standard such that they fit for purpose and unlikely to cause pollution
- treated materials can be transferred between sites as part of a hub and cluster project
- some naturally occurring clean material can be transferred directly between sites

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.

We recommends that developers should refer to:

- the position statement on the Definition of Waste: Development Industry Code of Practice
- the [waste management page](#) on gov.uk

Waste to be taken off site – advice to applicant

Contaminated soil that is (or must be) disposed of is waste. Therefore, its handling, transport, treatment and disposal are 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 2016
- 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 Standard BS EN 14899:2005 'Characterization 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 hazardous waste material produced or taken off-site is 500kg

or greater in any 12 month period, the developer will need to register with us as a hazardous waste producer. Refer to the [hazardous waste](#) pages on gov.uk for more information.

Yours faithfully

Hui Zhang
Planning Advisor - Sustainable Places
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