

Ms Christie Burns  
Copeland Borough Council  
Development Control  
The Copeland Centre Catherine Street  
Whitehaven  
Cumbria  
CA28 7SJ

**Our ref:** NO/2023/115491/02-L01  
**Your ref:** 4/23/2191/0F1  
**Date:** 12 March 2024

Dear Ms Burns

**PROPOSED ERECTION OF A NEW DWELLING & DETACHED GARAGE.  
LAND ADJACENT TO 21 SCURGILL TERRACE, EGREMONT**

Thank you for re-consulting us on the above application, received 5 March 2023.

In our previous response letter referenced NO/2023/115491/01-L01 and dated 22 August 2023, we objected to the application due to risks to groundwater quality.

We have reviewed the following supporting information that accompanies this application:

- Document titled 'Phase 2: Ground Investigation Report', prepared by Geo Environmental Engineering (referenced: 2021-4817; dated: 6 August 2021)
- Document titled 'Soil Remediation Strategy', prepared by Geo Environmental Engineering (referenced: 2023-6037; dated 13 September 2023).

**Environment Agency position**

We maintain our objection to the proposed development due to the lack of supporting information required to assess the risk to groundwater quality. Our comments are as follows:-

The Phase 2 Ground Investigation Report contains no information of the potential risks to groundwater and surface water quality. The report highlights the presence of made ground with total concentrations of contaminants at risk to human health receptors, but there are no groundwater or leachate tests to determine solubility of contaminants to address risk to water quality receptors.

Point 1.0 of the Soil Remediation Strategy (RS) report states that this RS "is designed to appropriately remediate the contamination identified within the following reports with

Environment Agency  
Lutra House Walton Summit, Bamber Bridge, Preston, PR5 8BX.  
Customer services line: 03708 506 506  
[www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

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respect to Human Health (proposed end users)".

The RS refers to a desk top study but this has not been included as part of the planning application and therefore we are unable to review or consider this. The RS also fails to include any conceptual model or source pathway receptor from potential soluble contamination.

The two remedial options will have an impact on our response to this application. If all made ground is removed off site, we would be able to consider removing our objection. If the made ground remains on site and the residual contamination is covered with inert materials and geotextile, this is unlikely to reduce risk, and our objection would still apply.

### **Overcoming our objection**

To address the above concerns, the applicant should either;

1. Provide evidence to demonstrate that the made ground containing contaminants of concern will be removed from site prior to the commencement of development; or,
2. Provide further information, including conceptual site model, groundwater and /or leaching tests, risk assessment and remedial options, in order to address soluble component of risk to water quality arising from retaining the made ground in situ.

### **Advice to applicant**

#### Waste on-site

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 reused on-site providing they are treated to a standard such that they are 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 recommend 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

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 sincerely,

**Miss Soraya Moghaddam**  
**Planning Advisor**

Direct e-mail [clplanning@environment-agency.gov.uk](mailto:clplanning@environment-agency.gov.uk)