

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

Our ref: NO/2023/115551/01-L01
Your ref: 4/23/2249/OF1
Date: 27 September 2023

Dear Sir/Madam

ERECTION OF WELCOME BUILDING WITH CAFÉ, RETAIL SPACE, STAFF FACILITIES AND CAR PARK, INSTALLATION OF AIR SOURCE HEAT PUMPS, REPAIR AND STABILISATION WORKS AND INSTALLATION OF SUSPENDED PERISCOPE MIRRORS AT HODBARROW BEACON, REPAIR AND STABILISATION WORKS AND INSTALLATION OF CAMERA OBSCURA STRUCTURE AT TOWSEY HOLE WINDMILL, INSTALLATION OF CLADDING AND NEW LIVING ROOF TO EXISTING BIRD HIDE, ERECTION OF NEW BIRD HIDES AND VIEWING PLATFORMS, CREATION OF NEW MULTI-USE PATHWAYS WITH SIGNAGE, GATEWAY FEATURES AND STREET FURNITURE, MAKING GOOD OF EXISTING BYWAY (BOAT) ALONG SEA WALL, ENHANCEMENT OF WILDLIFE HABITATS, AND ASSOCIATED ACCESS, LANDSCAPING AND DRAINAGE INFRASTRUCTURE.

LAND AT HODBARROW NATURE RESERVE, MILLOM

Thank you for consulting us on the above planning application.

Environment Agency position

We have no objection to the proposed development but recommend that any subsequent approval is conditioned to address the following issue:

Contaminated Land

The planning application is accompanied by a Phase 1 Preliminary Risk Assessment prepared by Curtins (ref. 080874-CUR-00-XX-RP-GE-001_P01, dated 21 March 2023). We have reviewed the report in so far as it relates to our remit.

In support of the recommendations for further work highlighted in the Phase 1 preliminary report, the previous iron mine extractive industry and landfill on site and in close proximity presents a medium risk of contamination that could be mobilised during

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Ghyll Mount (Gillan Way) Penrith 40 Business Park, Penrith, Cumbria, CA11 9BP.
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www.gov.uk/environment-agency

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construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary A aquifer.

The application's desk study demonstrates that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 183 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 174 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.

Condition

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 site investigation scheme, based on the desk study to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
2. The results of the site investigation and the detailed risk assessment referred to in (1) 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.
3. 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 (2) 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.

Land contamination: risk management and good practice – advice to applicant

We recommend that developers should:

- Follow the risk management framework provided in [Land Contamination: Risk Management](#), when dealing with land affected by contamination
- Refer to our [Guiding principles for land contamination](#) for the type of information that we require in order to assess risks to controlled waters from the site - the local authority can advise on risk to other receptors, such as human health
- Consider using the [National Quality Mark Scheme for Land Contamination Management](#) which involves the use of competent persons to ensure that land contamination risks are appropriately managed
- Refer to the [contaminated land](#) pages on gov.uk for more information

Biodiversity Net Gain (BNG) – advice to applicant

Applicants are encouraged to include biodiversity net gain (BNG) within their proposals. Paragraphs 174 and 179 of the National Planning Policy Framework (NPPF) recognise that the planning system should provide net gains for biodiversity. By November 2023, providing a minimum 10% biodiversity net gain in new development will be a legal requirement due to provisions within the Environment Act 2021. Applicants should have regard to the [latest planning practice guidance](#) on BNG in new development proposals.

Yours faithfully

Hui Zhang
Planning Advisor - Sustainable Places
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