

Ms Heather Morrison
Copeland Borough Council
Development Control
The Copeland Centre Catherine Street
Whitehaven
Cumbria
CA28 7SJ

Our ref: NO/2024/116308/01-L01
Your ref: 4/24/2300/OB1
Date: 12 September 2024

Dear Ms Morrison

VARIATION OF CONDITION 3 TO AMEND PARAMETER PLAN AND CONDITION 23 TO ALLOW FOR OFFICE USE IN ADDITION TO THE APPROVED USES OF PLANNING APPROVAL 4/22/2184/001 OUTLINE APPLICATION FOR THE ERECTION OF A NEW BUILDING UP TO 4000 SQUARE METRES IN FLOORSPEACE FOR VARIOUS USES, CAR PARKING, LANDSCAPING & ENGINEERING WORKS.

LAND TO THE NORTH EAST OF LECONFIELD INDUSTRIAL ESTATE, CLEATOR MOOR

Thank you for consulting us on the above application, received 10 September 2024.

In our previous response to planning application 4/22/2184/001, referenced NO/2022/114430/01-L01 and dated 22 May 2022, we had no objections to the development as proposed, subject to the inclusion of planning conditions in any subsequent approval.

Environment Agency position

We have reviewed the new information in support of the variation of conditions application. We have no objections to the development as proposed and our previous comments still stand which are stated below. We request that the below conditions are included in any subsequent planning approval:-

We have reviewed the Draft Phase 2 Site Investigation for Site A, Leconfield Industrial Estate Ref S220141, dated March 2022 produced by Solmek Ltd.

Groundwater and Contaminated Land

The proposed development sited on made ground and slag presents a medium risk of contamination that could be mobilised during construction to pollute underlying

Environment Agency
Lutra House Walton Summit, Bamber Bridge, Preston, PR5 8BX.
Customer services line: 03708 506 506
www.gov.uk/environment-agency
Cont/d..

groundwater resources.

The Solmek phase 2 site investigation report demonstrates that it will be possible to manage the risks posed to controlled waters by this development. However, further analysis and re-assessment of the 13 samples from across the site will be required before built development is undertaken. We believe that it would not 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 planning conditions are included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 189 of the National Planning Policy Framework.

Without this condition we would object to the proposal in line with paragraph 180 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 detailed risk assessment and an options appraisal and remediation strategy giving full details of the remediation measures required and how they are to be undertaken.
2. 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 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 180 of the National Planning Policy Framework.

Piling

Piling using penetrative methods can result in risk of mobilising contamination, drilling through different aquifers and creating preferential pathways.

Groundwater is particularly sensitive in this location because the proposed development site is sited upon a secondary aquifer A

In light of the above, the proposed development will only be acceptable if a planning condition controlling disturbance of the aquifer is imposed. Without this condition we would object to the proposal in line with paragraph 180 of the National Planning Policy

Framework because it cannot be guaranteed that the development will not present unacceptable risks to groundwater resources.

Condition

Piling using penetrative methods shall not be carried out other than with the written consent of the local planning authority. The development shall be carried out in accordance with the approved details.

Reason

To ensure that the proposed piling operations do not harm groundwater resources in line with paragraph 180 of the National Planning Policy Framework

Advice to applicant – Management of Waste

Excavated waste arising from earthworks will need to be tested for appropriate disposal in accordance with Waste Regulations

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