

Ref: 8190OR07

21/10/2022

Elizabeth Sturman  
Technical Manager  
Rural Enterprise Centre  
Redhills  
Penrith  
Cumbria  
CA11 0DT  
Email: [REDACTED]  
Mobile: [REDACTED]

## RESPONSE TO ENVIRONMENT AGENCY PLANNING CONSULTATION FOR THE PROPOSED RESIDENTIAL DEVELOPMENT AT WATERS EDGE, WHITEHAVEN

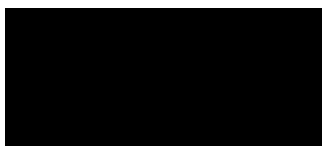
Further to our recent discussion, we have received an initial response from the Environment Agency in connection with the recent submission of the Phase 1 and 2 Ground Investigation Report (Ref. 8190OR03Rev2, dated March 2022) and Remediation Method Statement with combined earthworks specification (Ref. 8190OR04Rev2, dated October 2022) for the proposed reuse of site won materials as part of the Claire Definition of Waste Code of Practice and a Materials Management Plan.

As part of the consultation response, the Environment Agency are indicating that they consider the proposed development at Waters Edge to be within the wider area that has been designated a 'Special Site' under the Environmental Protection Act 1990 Part 2A i.e. part of the wider investigations and remedial works undertaken to the south on the main chemical works process areas. However, this is contrary to the information previously received from the Environment Agency and Local Planning Authority and the remediation documents reviewed for the adjacent chemical works to the south. These documents confirmed the Part 2A designation (green line on the attached plans) only extended up to the southern boundary of the site and specifically excluded the former offices and laboratories (previously owned by Tamar properties and then Story Homes) i.e. your current site. The Former Albright & Wilson Works Remediation Statement identified that the Water's Edge development site was not part of the main processing areas of the Chemical Works and did not require any specific remediation works. It confirms that the Water's Edge site was predominantly utilised as office, warehouse and storage space.

We understand that this inaccuracy has not been addressed with the Local Planning Authority or the Environment Agency and, therefore, we would recommend that this was raised at the first opportunity so that an appropriate consultation response can be provided by the Environment agency within the correct regulatory context.

If you would like to discuss, please give me a call.

On behalf of FWS Consultants Ltd



M LAKEY  
DIRECTOR

Encs:      Environment Agency Response to Request for Information dated 13 August 2019  
              URS Drawing Site Plan Showing Area to Which Remediation Statement Applies Ref.  
              SB/SQ/MCH Figure 2 dated January 2008  
              URS Drawing Potential Sources of Contamination Requiring Further Assessment and / or  
              Remediation Ref. SB/SQ/MCH Figure 3 dated January 2008  
              Consultation Response Ref. NO/2020/113115/01-L01, dated 8/12/2020

## Nicholas Thomson

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**From:** [REDACTED]  
**Sent:** Tuesday, August 13, 2019 9:38 AM  
**To:** [REDACTED]  
**Subject:** CL138226HR

Dear Nick

Enquiry regarding the site investigation on former chemical works at Water's Edge, Whitehaven.

Thank you for your enquiry received on

We respond under the Freedom of Information Act 2000 and Environment Regulations 2004.

The site is the former Marchon Chemical works which was a large industrial complex manufacturing chemicals, acids and surfactants. The site apart from the former offices and laboratories (previously owned by Tamar properties and then Story Homes) was investigated under Environmental Protection Act 1990 Part 2A and determined as a contaminated land site by Copeland Borough Council. Regulatory control was transferred to the Environment Agency as a "Special Site" and the company Rhodia agreed to voluntarily remediate the site under a Remediation Statement. The assessment actions were completed to remove the pollutant linkage to identified Controlled Water receptors.

All that remains on site now are the remnants and foundations of roads, plant and buildings. The EA have no detail regarding demolition of the site. All services were cut off to the site and drainage channels were removed or allowed to block allowing surface water to drain naturally.

Leachate from the Hutbank quarry landfill is still collected and transferred to the treatment facility on the Southern perimeter of the site.

If you wish to discuss proposals for re-use of the site or ground investigation proposals, our Sustainable Places Team can organise a pre-planning meeting. We could also arrange to make available the Public Register documentation of the Remediation Statement, which you can view at our office or at Copeland Borough Council's Environmental Health office. There are too many volumes to copy directly so it would be better for you to visit the office and review what you need.

Rhodia will have information on the former drainage infrastructure, demolition and works on site.

Please refer to the Open Government Licence which explains their permitted use for this information.

Please get in touch if you have any further queries or contact us within 2 months if you would like us to review the information we have sent.

Kind regards.

Helen Reynolds  
Customers and Engagement Officer, Cumbria and Lancashire  
**Environment Agency** | Ghyll Mount, Gillan Way, Penrith 40 Business Park, Penrith, Cumbria, CA11 9BP





I'm a friend of the Environment Agency LGBT+ network because I want to encourage a friendly open workplace where everyone can be themselves.



Got a question or want to talk to someone about mental health?

Drop us an [email](#) or join the conversation on our 'Mental Health Support' Yammer Group. Our Wellbeing Supporters can provide a listening ear from someone with a shared experience. To find out more e-mail the Mental Health Network.

HELP employee assistance – <https://hereto.helpeap.com>

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**From:** CMBLNC Info Requests  
**Sent:** 12 August 2019 10:27  
**To:** [REDACTED]  
**Subject:** CL138226HR

Dear Nick

Thank you for contacting the Environment Agency regarding Site Investigation on Former Chemical Works at Water's Edge, Whitehaven.

As your request for information falls under either the Freedom of Information Act or Environmental Information Regulations we must respond to you within 20 working days.

I have sent your request to the relevant team to answer and will be in touch with you in due course.

In the meantime you may wish to look at [www.data.gov.uk](http://www.data.gov.uk) to see if the data you have requested is available for you online.

For further information on what you can expect from us and our full service commitment to you, please click this link; <https://www.gov.uk/government/publications/environment-agency-customer-service-commitment>

The Environment Agency follows all applicable UK and EU data protection laws in how we treat your personal information (also called personal data). More details on your rights and how we will process your personal information can be found in our Personal Information Charter: <https://www.gov.uk/government/organisations/environment-agency/about/personal-information-charter>

If you need to contact me in the meantime, please do not hesitate to do so using the details below and quoting reference number CL138226HR.

Kind regards

Helen Reynolds  
Customers and Engagement Officer, Cumbria and Lancashire  
**Environment Agency** | Ghyll Mount, Gillan Way, Penrith 40 Business Park, Penrith, Cumbria, CA11 9BP





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HELP employee assistance – <https://hereto.helpeap.com>

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**From:** Enquiries, Unit

**Sent:** 09 August 2019 13:40

**To:** 'Nicholas Thomson' [REDACTED]

**Subject:** 190809/GS31 R [REDACTED] al Works at Water's Edge, Whitehaven

Dear Nick,

I have passed your e-mail to the local customer team who will deal with your request.

The Freedom of Information Act and Environmental Information Regulations state that a public authority must respond to requests for information within 20 working days, but we aim to respond to all enquiries as quickly as we can.

You can find more information about our service commitment by clicking on the link below:

<https://www.gov.uk/government/publications/environment-agency-customer-service-commitment>

You can contact our customer team directly on the contact details below, or call the National Customer Contact Centre on 03708 506506 who will transfer you to the area team.

Please quote your enquiry reference 190809/GS31 in any correspondence with us regarding this matter.

Customers and Engagement  
Environment Agency  
Cumbria and Lancashire Area  
Ghyll Mount  
Gillan Way  
Penrith 40 Business Park  
PENRITH  
CA11 9BP

Kind regards,

Graham Shoebridge  
Customer Service Adviser  
National Customer Contact Centre  
Environment Agency  
☎ Tel: 03708 506 506  
🌐 Web Site: [www.gov.uk/environment-agency](http://www.gov.uk/environment-agency)

Click an icon to keep in touch with us:-



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**From:** Nicholas Thomson [REDACTED]  
**Sent:** 08 August 2019 14:55  
**To:** Enquiries, Unit [REDACTED]  
**Subject:** Site Investigation on Former Chemical Works at Water's Edge, Whitehaven

Good Afternoon,

I have a site investigation coming up on the 22nd of August on a former chemical works at Water's Edge, Whitehaven in Cumbria (Nation Grid Reference 296680E, 516290N) as shown in the site Location plan above. Our desk study research indicates the chemical works was developed in the 1940s and was later demolished by 2012.

Do you happen to have any record of the plant processes, demolition records or presence of underground tanks or service ducts.

Any information would be helpful for the design of our investigation.

Kind Regards

Nick

**Nicholas Thomson BSc (Hons) FGS**  
**Geoenvironmental Engineer**



T: 01355 207778  
M: 07712677340

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**LONDON OFFICE** | FWS Consultants Ltd | 3rd Floor | 86 - 90 Paul Street | LONDON | EC2A 4NE | Tel: +44 (0)203 8236069

Web: [www.fwsconsultants.com](http://www.fwsconsultants.com)



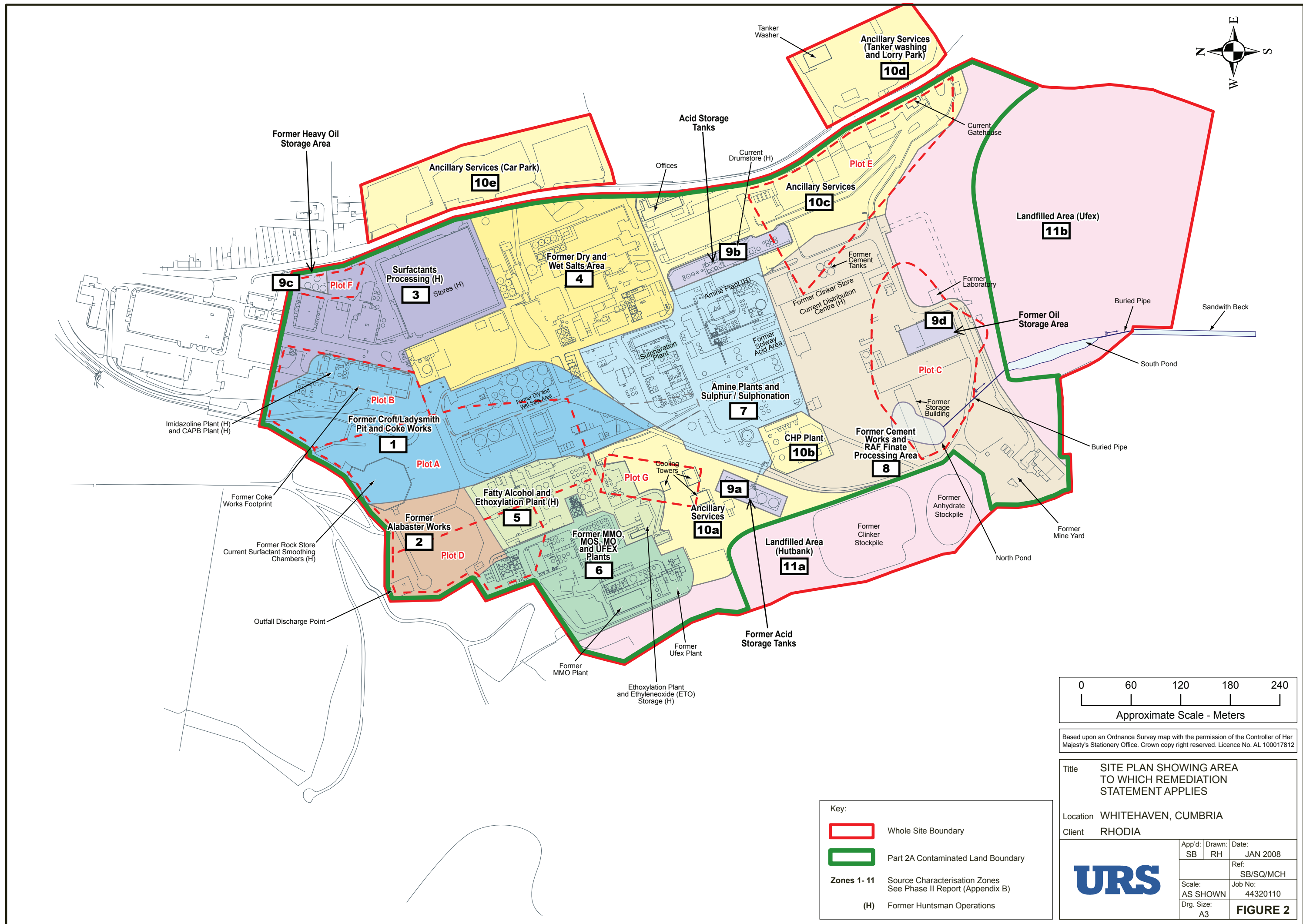
***FWS Consultants Ltd is registered in England with Company No: 3944252 (Registered Office: as above)***

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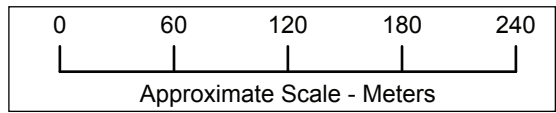
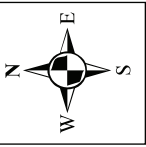
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**Key:**

- Part 2A Contaminated Land Boundary
- PLOT B** Source Characterisation Zones
- Source requiring remediation
- Source requiring assessment

**Note:** The remediation area in Plot C is a voluntary action by Rhodia and is not a requirement of Part 2A

**Title** POTENTIAL SOURCES OF CONTAMINATION REQUIRING FURTHER ASSESSMENT AND / OR REMEDIATION

**Location** WHITEHAVEN, CUMBRIA

**Client** RHODIA

	App'd:	Drawn:	Date:
	SB	RH	JAN 2008
	Ref:		SB/SQ/MCH
	Scale:	Job No:	
AS SHOWN	44320110		
Drg. Size:	A3		
		<b>FIGURE 3</b>	

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

**Our ref:** NO/2020/113115/01-L01  
**Your ref:** 4/20/2455/0F1  
**Date:** 08 December 2020

Dear Sir/Madam

**RESIDENTIAL DEVELOPMENT OF 40 DWELLINGS  
LAND SOUTH OF WATERS EDGE CLOSE, KELLS, WHITEHAVEN**

Thank you for consulting us on the above application, which we received 19 November 2020.

We consider that the development design is based on an incomplete understanding of the distribution and status of contaminants and their risk to Controlled Waters.

It should also be noted that the obsolete DEFRA guidance CLR11, referenced in the report was replaced on 8 October 2020 by Land Contamination Risk Management, and the Waste Acceptance Criteria testing (Appendix 9) was withdrawn on 30 January 2020.

The Remedial Targets Methodology provides a tiered risk assessment to address risk to Controlled Waters, and should be used for this risk assessment.

There is insufficient information to determine the leachable contaminant status of insitu made ground and soils (as per the tiered assessment) and therefore it is not possible to accept that the ground investigation report is representative of site conditions or should be used for deep foundation design without further lines of evidence. However, notwithstanding these concerns we consider that there is sufficient information presented here to provide confidence that the site can be developed.

**Environment Agency position**

The proposed development site is contaminated land which has been designated as a special site under the Environmental protection Act 1990 part 2A. The land formerly owned by Rhodia and operated by Huntsman has been the subject of remediation under a Remediation Statement. The land subject to the application for development has not been remediated.

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)

Cont/d..

The previous use of the former Marchon chemical works presents a medium risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the proposed development site is located upon a secondary aquifer A and in close proximity to the Irish Sea

The application's Phase 1 & 2 Geoenvironmental Investigation 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 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 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 178 of the National Planning Policy Framework.

Without these conditions 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.

### **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 supplementary site investigation to provide information for a detailed assessment of the risk to all Controlled Water 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 170 of the National Planning Policy Framework.

### **Piling**

Piling using penetrative methods can result in risk of mobilising contamination, drilling through different lithology and creating preferential pathways. Groundwater is particularly sensitive in this location because the proposed development site is located upon secondary aquifer A. The proposed development will only be acceptable if a planning condition endorsing protection of the aquifer is imposed. 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 present unacceptable risks to groundwater resources.

### **Condition**

A risk assessment for Piling and foundation designs using penetrative methods shall be submitted for approval to the Planning Authority. Works should 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 foundation design and installation does not harm groundwater resources in line with paragraph 170 of the National Planning Policy Framework

### **Advice to Applicant**

The reports have been reviewed with the following comments:

- In the Executive summary, (location/topography) -The site is not 3.1KM East of Carlisle. This needs to be deleted.
- The hydraulic gradient of shallow perched groundwater in cohesive made ground and clays is stated to flow to South and South West . This is contrary to the findings of the Integra and URS investigations. It is acknowledged that the full Integra report was not available when this report was written and therefore it is recommended this assumption is revised upon review of the full documents.
- The EA and Integra third party reports give an indication of land quality at the time of the investigation only. It should be noted the “Assessment Actions” of the Remediation Statement for the adjacent Rhodia site required soil and groundwater analysis to numerically model risk to Controlled Waters. This provided confidence and evidence that remedial works were not required within the Special Site plots. The same level of tiered risk assessment in accordance with Remedial targets risk assessment is recommended for development of this site.
- Groundwater – There is insufficient information on the hydrogeology. There are no boreholes at depth within the fill, till or sandstone that have monitored levels and quality. Monitoring was only undertaken in the shallow gas monitoring wells and there is insufficient data to understand what this groundwater represents. The 3 dual-purpose gas and groundwater boreholes (WS2,3,5) were monitored from September to January and are not considered as suitable groundwater monitoring installations having limited penetration of <1m in WS5, 1.2m in WS3 and 1.12m in Ws2 into the made ground.
- The report suggests that there has been some leachate sampling of made ground, but the appendix only includes the tests required for Waste Acceptance Criteria (WAC) testing. In the absence of leachate samples of made-ground or natural soils, it is not possible to determine the fate and transport of soluble contaminants and their impact on Controlled Waters receptors.
- Groundwater seepages, assumed to be perched water were not analysed for contaminants.
- In areas where the depth of fill is too deep for strip foundations, there is a proposal to use alternative methods. Currently there is a lack of information to assess the risk to Controlled Waters from piled foundation and ground improvement proposals. A specific risk assessment and /or remediation for foundations design is required in the areas of the former bulk fuel silos. Free phase fuel / hydrocarbons may be present and disturbance could cause or

- exacerbate the pollution potential.
- There are no objections in principle for the use of strip foundations or founding directly onto bedrock
- We have no objections to removal of stockpiled waste off site. The testing of this material under the remit of Waste acceptance Criteria is acceptable.
- Remediation proposals of cover for the protection of buildings and human health is a matter for Copeland Environmental Health. The need for remediation of soils and/ or groundwater is dependent on the further investigation and risk assessment in the targeted areas as recommended in the planning condition.
- Further detail on the sampling strategy is required in terms of the spatial distribution and methodology. It appears that not every trial pit was tested. 38 trial pits were excavated to visually assess the nature of shallow subsurface conditions, but not every trial pit was sampled and only a single sample taken. The 21 excavations in the stockpiles were taken for the purpose of waste classification. We appreciate that there has been some targeting for sample analysis, but the work does not determine the chemical profile in 3-dimensions as required by current guidance because only one near surface sample from made ground has been analysed for total concentration of contaminants. There has been no chemical assessment of the soil profile at any sampling point. A risk assessment for Controlled Waters requires an understanding of the leachability of contaminants in soils, contaminant concentration, mobility and presence in water and their mechanism of migration. In the absence of groundwater quality data or contaminant profile of both total and leachable assessment, it is not possible to judge the status of contaminants.
- The impact of land underlying the footprint of the stockpiles is also unknown because there was partial removal of stockpiled material (ref. 7.3)
- The primary argument for no remedial action based on the presumption that the glacial till will prevent migration to the underlying aquifer is unfounded. There is no or very little clay in the SE of the site and thus hydrocarbons present are able to transfer directly from made ground into the sandstone aquifer. This is shown in the conceptual site model & preliminary risk assessment within the appendix. Previous reports have anticipated that free phase fuel is present lying directly over bedrock.

The CL:AIRE Definition of Waste: Development Industry Code of Practice 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

Yours faithfully

**Mrs Liz Locke**  
**Sustainable Places Officer**

