

Ms Anne Arkle
Development Control
Amber Valley Borough Council
PO Box 18
Ripley
Derbyshire
DE5 3SZ

Our ref: LT/2022/127322/02-L01
Your ref: AVA/2022/0863
Date: 06 January 2023

Dear Ms Arkle

PROPOSED RESTORATION AND CONVERSION OF EXISTING WAREHOUSE AND STABLES BUILDING INTO APARTMENTS (RESUBMISSION OF AVA/2021/0421)

FORMER FUCHS SITE, DERBY ROAD, BELPER, DERBYSHIRE

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

Environment Agency position

We have been provided with the following reports to review and comment regarding the risks to Controlled Waters at the site:

- DeltaSimons Geo-environmental Assessment, dated November 2021, ref: 21-1612.01_REP_Fuchs-Site_Belper_GEA_211126;
- DeltaSimons Additional Environmental Risk Assessment, dated March 2022, 21-1612.02_REP_Former_Fuchs-site_Belper_GEA_220315;
- DeltaSimons Additional Environmental Risk Assessment, Former Fuchs Site, Derby Road, Belper. Issue 02, Final 21/10/2022. Client: AG Group Ltd. No: 21-1612.02;
- DeltaSimons Remediation and Verification Strategy, Former Fuchs Site, Belper Client: AG Group Ltd, Issue 1: Final, dated: 08/12/2022., Project No: 21-1612.02; and
- DeltaSimons Oil Impacted Stonework - Remedial Strategy Addendum Fuchs Site Belper Delta-Simons Project Number 21-1612.03 / 90018.551598. Issue 1: Final, dated: 08/12/2022.

We note that development has commenced on the site before agreeing our requirements in relation to the site.

1) Within the DeltaSimons Geo-environmental Assessment, dated November 2021, ref: 21-1612.01_REP_Fuchs-Site_Belper_GEA_211126 "Figure 3 Intrusive location plan" shows the exploratory locations without a base map of the site.

We request that we are provided with an updated figure with a base map of the current site, exploratory locations and current identified site sources.

2) We require that the remediation method statement detailing the options for how the removal of NAPL will be undertaken on the site, showing and describing the areas this work is to be undertaken in and specific details on how this work will be monitored and

Environment Agency
Trent Side North, West Bridgford, Nottingham, NG2 5FA.
Customer services line: 03708 506 506

www.gov.uk/environment-agency

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validated in addition to long term monitoring to address the risks. Specifically, where will monitoring be undertaken before, during and after these works to demonstrate success of the remediation methods and to ensure protection of environmental receptors? Further information is required to be provided.

3) In terms of sustainability of the development, it is not appropriate for NAPL to be left un-remediated on the site and therefore it needs to be addressed. There is currently insufficient evidence for the consultant to state in the additional environmental risk assessment report that “the reported high hydrocarbon concentrations are likely to be an over representation of the true dissolved phase contamination due to the presence of LNAPL and entrainment within the samples.”

The identified NAPL and product needs to undergo meaningful remediation at the site and further information will need to be provided on the remediation and removal of this NAPL contamination.

We recommend the following conditions be imposed to ensure that risks to controlled water receptors are appropriately assessed and mitigated:

Condition 1 - Land Contamination Condition

1) A site investigation scheme, based on the preliminary risk assessment 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.

Any changes to these components require the express written consent of the Local Planning Authority. The scheme shall be implemented as approved.

Reason

To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

Condition 2 - Verification Report

No occupation shall take place until a verification report demonstrating completion of works set out in the approved remediation strategy and the effectiveness of the remediation shall be submitted to and approved, in writing, by the Local Planning Authority. The report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include any plan (a “long-term monitoring and maintenance plan”) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan. The long-term monitoring and maintenance plan shall be implemented as approved.

Reason

To ensure that the site does not pose any further risk to human health or the water environment by demonstrating that the requirements of the approved verification plan have been met and that remediation of the site is complete. This is in line with paragraph 170 of the National Planning Policy Framework.

Condition 3 - Unexpected Contamination

If, during development, contamination not previously identified is found to be present at the site then no further development (unless otherwise agreed in writing with the Local

Planning Authority) shall be carried out until the developer has submitted a remediation strategy to the Local Planning Authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason

The site has been subject to a significant potentially contaminative industrial activity and is located above Secondary A and Secondary B aquifers and the above conditions will ensure that the risks to the aquifers and surface water are adequately assessed and mitigated.

To ensure that the development does not contribute to, is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site. This is in line with paragraph 170 of the National Planning Policy Framework

Condition 4 - Piling Risk Assessment

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details. Therefore, a piling risk assessment will be required to be submitted in relation to the proposed development.

Reason

Piling or any other foundation using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Thus, it should be demonstrated that any proposed piling will not result in contamination of groundwater. A site specific piling risk assessment will also be required to be undertaken ensure that no creation of preferential pathways occurs during the piling works.

To ensure that the development does not contribute to, or is not put at unacceptable risk from/adversely affected by, unacceptable levels of water pollution in line with paragraph 170 of the National Planning Policy Framework.

Where deep foundations are proposed we recommend the developer follows the guidance set out within our document 'Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination' which is available on our website at the following address:

<http://webarchive.nationalarchives.gov.uk/20140328084622/http://cdn.environment-agency.gov.uk/scho0501bitt-e-e.pdf>

Condition 5 - Drainage

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.

Advice to Local Planning Authority / Applicant

Waste on site

Excavated materials that are recovered via a treatment operation can be re-used on-site under the CL:AIRE Definition of Waste: Development Industry Code of Practice. This voluntary Code of Practice provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are waste.

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.

The Environment Agency recommends that developers should refer to our:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at <https://www.gov.uk/government/organisations/environment-agency> for further guidance.

Waste to be taken off site

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is 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 2010
- 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 Standards BS EN 14899:2005 'Characterisation 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 waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer. Refer to our website at <https://www.gov.uk/government/organisations/environment-agency> for more information.

In accordance with the Planning Practice Guidance (Reference ID: 7-043-20140306), please notify us by email within 2 weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Yours sincerely

Ms Lydia Bond

Planning Advisor

Direct dial 0208 4745166

Direct e-mail lydia.bond@environment-agency.gov.uk

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