

Farzana Tabasum
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2023/145975/01-L01
Your ref: 2023/91280

Date: 05 July 2023

By email: dc.admin@kirklees.gov.uk

Dear Farzana

EXTENSION TO PREVIOUS BROMLEY FARM QUARRY FOR EXTRACTION OF CLAY, SHALE AND INCIDENTAL COAL – BROMLEY FARM QUARRY, BARNSELEY ROAD, UPPER CUMBERWORTH, HUDDERSFIELD, HD8 8PD

Thank you for consulting us on this application which we received on 14 June 2023.

Environment Agency position

The Phase 1 Preliminary Geo-environmental Risk Assessment for the proposed development (Silkstone Environmental Limited, 2023) was reviewed. The previous use of the proposed development site included potentially contaminative land uses, including historic landfill and spoil storage. This presents a risk of contamination that could be mobilised during extraction 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 Phase 1 assessment 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 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.

Environment Agency
Kings Pool Peasholme Green, York, North Yorkshire, YO1 7PX.
Customer services line: 03708 506 506
www.gov.uk/environment-agency

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This strategy will include the following components (supported by the existing Phase 1 Risk Assessment):

1. A site investigation scheme, based on the existing Phase 1 Risk Assessment (Silkstone, Jan 2023) 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.

Informatives

We refer the applicant to our groundwater position statements in [‘The Environment Agency’s approach to groundwater protection’](#), available from gov.uk. This publication sets out our position for a wide range of activities and developments, including quarrying. Consideration should be given to the potential risk of pollution from fuel storage and machinery on the development site infiltrating to the underlying aquifer. With the proposed quarrying activity there is also the potential for sediment heavy water to enter fractures within the underlying bedrock, which may increase the turbidity of the underlying groundwater.

If you intend to abstract more than 20 cubic metres of water per day from a surface water source e.g. a stream or from underground strata (via borehole or well) for any particular purpose then you will need an abstraction licence from the Environment Agency. There is no guarantee that a licence will be granted as this is dependent on available water resources and existing protected rights.

Historic Landfill - Advice to applicant/ LPA

The proposed development is located on or within 50m of a landfill site that is potentially producing landfill gas.

Landfill gas consists of methane and carbon dioxide. It is produced as the waste in the landfill site degrades. Methane can present a risk of fire and explosion. Carbon dioxide can present a risk of asphyxiation or suffocation. The trace constituents of landfill gas can be toxic and can give rise to long- and short-term health risks as well as odour nuisance.

The risks associated with landfill gas will depend on the controls in place to prevent uncontrolled release of landfill gas from the landfill site. Older landfill sites may have poorer controls in place and the level of risk may be higher or uncertain due to a lack of historical records of waste inputs or control measures.

Development on top of or within 50m of any permitted landfill site that accepted hazardous or non-hazardous waste should be considered very carefully, as even with appropriate building control measures in place, landfill gas can accumulate in confined spaces in gardens (e.g. sheds, small extensions) and can gain access to service pipes and drains where it can accumulate or migrate away from the site.

Under the conditions of the environmental permit for the landfill, the operator is required to monitor for sub-surface migration of landfill gas from the site. An examination of our records of this monitoring show that there *is* previous evidence of landfill gas migration from the site that could affect the proposed development. This environmental monitoring data from the site is available on our public register.

You should consider the potential risk to the development from landfill gas, ensuring that appropriate assessments have been carried out to identify potential risks. Where risks are identified you should ensure that measures to address these concerns are included as part of any planning permission. We would advise seeking the views of your local planning authority's Environmental Health and Building Control departments to ensure that any threats from landfill gas have been adequately addressed in the proposed development. Where this includes building construction techniques that minimise the possibility of landfill gas entering any enclosed structures on the site, you should consider the removal of permitted development rights to ensure that these prevention measures are not compromised by future alterations/extensions.

The following publications provide further advice on the risks from landfill gas and ways of managing these:

- Waste Management Paper No 27
- Environment Agency LFTGN03 'Guidance on the Management of Landfill Gas'
- Building Research Establishment guidance – BR 414 'Protective Measures for Housing on Gas-contaminated Land' 2001
- Building Research Establishment guidance – BR 212 'Construction of new buildings on gas-contaminated land' 1991
- CIRIA Guidance – C665 'Assessing risks posed by hazardous ground gases to buildings' 2007

Importation of waste on to site - Advice to LPA/applicant

This development will require an environmental permit under the Environmental Permitting (England and Wales) Regulations 2016, Regulation 12.

In circumstances where an activity/operation meets certain criteria, an exemption from permitting may apply, more information on exempt activities can be found here:

<https://www.gov.uk/guidance/register-your-waste-exemptions-environmental-permits>

The applicant is advised to contact National Permitting team at the Environment Agency to discuss the issues arising from the permit application process.

Should you require any further information or clarification, please contact me.

Yours sincerely

Bev Lambert
Sustainable Places - Planning Advisor

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