

Nina Sayers
Kirklees Metropolitan Borough Council
Development Management

Our ref: RA/2024/146676/01-L01
Your ref: 2023/92200

Date: 25 January 2024

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

Dear Nina

ERECTION OF SINGLE STOREY RETAIL UNIT WITH ASSOCIATED PARKING AREA AND MODIFICATION TO EXISTING SITE ACCESS AND EGRESS (WITHIN A CONSERVATION AREA) – FORMER PETROL STATION, NORTH ROAD, KIRKBURTON, HUDDERSFIELD, HD8 0RL

Thank you for consulting us on this application which we received on 4 January 2024.

Flood Risk

Our Flood Map for Planning shows the site lies partly within Flood Zones 2 and 3, with a medium / high probability of flooding from rivers and/or the sea. The application is for a retail unit, which is considered to be a 'less vulnerable' land use in [Annex 3](#) of the National Planning Policy Framework. It is therefore necessary for the application to be supported by a site-specific flood risk assessment (FRA), which can demonstrate that the 'development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall'.

Environment Agency position

No FRA has been submitted in support of the application. However, we have no objections to the proposed development from a flood risk perspective. The built elements of the proposal are in Flood Zone 1 and elevated some distance above the watercourse, so this proposal is considered low risk.

INFORMATIVES

Environmental permit - advice to applicant

The Environmental Permitting (England and Wales) Regulations 2016 require a permit to be obtained for any activities which will take place:

- on or within 8 metres of a main river (16 metres if tidal)
- on or within 8 metres of a flood defence structure or culverted main river (16 metres if tidal)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a planning permission

For further guidance please visit <https://www.gov.uk/guidance/flood-risk-activities-environmental-permits> or contact our National Customer Contact Centre on 03708 506 506. The applicant should not assume that a permit will automatically be forthcoming once planning permission has been granted, and we advise them to consult with us at the earliest opportunity.

Land contamination

This development site appears to have been the subject of past industrial activity which poses a high risk of pollution to controlled waters.

However, we are unable to provide site specific advice relating to land contamination as we have recently revised our priorities so that we can focus on:

- Protecting and improving the groundwater that supports existing drinking water supplies
- Groundwater within important aquifers for future supply of drinking water or other environmental use

We recommend that you refer to our published '[Guiding Principles for Land Contamination](#)' which outlines the approach which should be adopted when managing this site's risks to the water environment.

We also advise that you consult with your Environmental Health/ Environmental Protection Department for advice on generic aspects of land contamination management. Where planning controls are considered necessary, we recommend that the environmental protection of controlled waters is considered alongside any human health protection requirements. This approach is supported by paragraph 180 of the National Planning Policy Framework.

Model Procedures

We recommend that developers should:

1. Follow the risk management framework provided in '[Land contamination: risk management](#)' when dealing with land affected by contamination.
2. 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.
3. 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.
4. Refer to the [contaminated land](#) pages on gov.uk for more information.

Use of 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 are waste or have ceased to be waste. Under the Code of Practice:

- excavated materials that are recovered via a treatment operation can be re-used 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.

If you need any clarification or further information, please contact me.

Yours sincerely

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