Land at Newark Road, Sutton-in-Ashfield

Appeal Reference: APP/W3005/W/24/3350529

LAND CONTAMINATION

SUMMARY OF PROOF OF EVIDENCE

Produced on behalf of

Hallam Land

December 2024

P22-070

22070-RLL-24-XX-RP-O-0003

1 Summary of Proof of Evidence

1.1 Introduction

1.1.1 My name is Darcy Kitson-Boyce, I have a Masters (MEng) degree in Civil Engineering from the University of Nottingham and am employed as an Associate Director with Rodgers Leask Limited based in Nottingham. I am professionally registered as a Chartered Environmentalist (CEnv) with the Engineering Council and I am a Member of the Institution of Environmental Sciences (MIEnvSc). I have day to day responsibility for a team of geotechnical and environmental engineers within the Geo-Environmental Engineering Department. I have over 13 years' experience in a consultancy role providing geo-environmental engineering for brownfield development.

1.1.2 I am instructed on behalf of the appellant to provide evidence relating to land contamination matters concerning the planning appeal.

1.1.3 I confirm that I have inspected the site ("the Site") and locality and am familiar with the appeal site and its surrounding.

1.1.4 The National Planning Policy Framework (NPPF) was first published in March 2012, and most recently updated on 12th December 2024. The NPPF sets out the government's planning policies for England and how these should be applied, guiding LPAs in determining planning applications. I have reviewed the NPPF and other planning policies in the preparation of my proof of evidence, as well as relevant technical guidance.

1.2 Summary

1.2.1 An outline Planning application reference V/2022/0629 was submitted on behalf of the appellant (Hallam Land Management) to the Local Planning Authority (LPA) Ashfield District Council (ADC) on 12th August 2022 and validated on 23rd August 2022.

1.2.2 A Phase 1 Geo-Environmental Desk Study report (Ref: 22070-RL-22-XX-RP-O-0001) was produced by Rodgers Leask to support the planning application, including appendices containing ground gas monitoring and assessment.

1.2.3 No objections to the development proposals were raised by either the ADC Contaminated Land Officer or the Environment Agency.

1.2.4 Whilst the officer recommendation was to grant planning permission taking into account the responses from statutory consultees and third parties, members failed to reach a decision.

1.2.5 The applicant, Hallam Land Management, has exercised its right to appeal the non-determination (Ref: APP/W3005/W/24/3350529).

1.2.6 The Local Planning Authority did not issue a formal decision notice but the authority's Planning Committee resolved on 23 October 2024 that it would have been minded to refuse the application on 5 grounds. Putative Reason for Refusal (RfR) 4 related to land contamination, stating that insufficient information has been provided to demonstrate that the development proposed would be suitable to provide a residential use taking account of ground conditions and risks arising from contamination.

1.2.7 Additional site investigation and assessment has been undertaken and provided to the council for their review in determining whether the site is suitable for residential development, after the Council had indicated its reasons for refusal.

1.2.8 In producing this proof of evidence, I have reviewed the submitted documents, alongside national and local policy and relevant technical guidance relating to land contamination risks and the redevelopment of brownfield sites. I consider that the assessments and investigations for this site have been undertaken in accordance with the Environment Agency Land Contamination Risk Management (LCRM) guidance.

1.2.9 Sporadic elevated concentrations of contaminations were identified, when compared to adopted screening values, but these were all noted to be at a depth that would present a low risk to human health. Nevertheless, a cover system of clean certified soils will be installed to mitigate the risk, which will effectively break any potential pollutant linkages that could affect future site users.

1.2.10 No significant concentrations of contaminants have been encountered that indicate a risk to groundwater. Moreover, the proposed development will provide betterment in this regard due to a 33% reduction in rainwater infiltration. It is therefore considered that the low risk to groundwater will only be reduced as a result of the development. No further mitigation is deemed necessary.

1.2.11 There is not considered to be any mechanism by which rainwater can migrate through made ground material and re-emerge to impact surface water.

1.2.12 The risk of ground gas has been investigated and assessed in accordance with technical guidance. Ground gas protection measures are to be adopted for dwellings in the landfill and within a 30m buffer zone. These protection measures will comprise a ventilated subfloor void and gas membrane resistant to carbon dioxide and methane.

1.2.13 It is understood that the council have shared the ECE Site Investigation and the ECE Hydrogeological Review and Groundwater Piling Assessment with statutory

consultees in response to the councillors opinion that there was an insufficiency of data. The Contaminated Land Officer responded on 29th November 2024 to confirm approval of these assessments.

1.2.14 I have considered the representations submitted by third parties and set out below the main issues raised and summarise my response (further detail being provided in my main statement of evidence).

- The nature and composition of the landfill material
- The potential risks relating to 'landfill gas' being present
- The potential mobilisation of contaminants due to groundwater / surface water
- The potential disturbance of contaminants as a result of the proposed construction works.

1.2.15 As referenced in Section 2.5.2 of my proof, the landfill license allowed the deposition of construction and demolition waste. By reference to the ECE site investigation report, it can be seen that a total of 90 intrusive locations have been undertaken within the landfill area; the results of which corroborate the license issued. Section 4.5 of my proof confirms that the sporadic elevated concentrations of contaminations are not deemed to be a risk to human health, subject to the proposed mitigation measures.

1.2.16 As per Section 4.8 of my proof, the ground gas regime of the site has been assessed in accordance with the appropriate British Standard and determined that there is very little gas generation occurring. Nevertheless, ground gas protection measures will be installed for the dwellings above the landfill. The risk is considered to be low, but will be properly mitigated in accordance with industry guidance.

1.2.17 No shallow groundwater body has been identified across 6 months of the monitoring, including winter months. There are no springs on this site, nor do the geological conditions present any possibility of this. It is therefore believed that the comments related to the possible presence of sub-surface water re-emerging at surface once the ground is saturated in particularly wet weather conditions. In any case, this is not deemed to present a risk of contaminant mobilisation. The potential risks to both groundwater and surface water have been addressed in detail in Section 4 of my proof.

1.2.18 The potential risks associated with disturbance of the Made Ground will be mitigated through standard construction practices such as maintenance of hygiene, adequate welfare and dust suppression techniques. The ECE Hydrogeological and Groundwater Piling Assessment sets out the proposed

methods to mitigate disturbance of potential contaminants during piling operations.

1.2.19 I have reviewed several landfill development case studies, including residential schemes and a school. Planning permission has been granted for all developments; two of which were subject to an appeal that was allowed by the Inspectorate. The case studies involved similar mitigation measures comprising a clean cover system and gas protection measures.

2 Conclusions

2.1.1 When considering the findings of the various ground investigation reports and assessments, the committee report, Statement of Common Ground and giving due consideration to the comments of consultees and local residents, I have reached the following conclusions.

2.1.2 The risk from contamination has been addressed in detail, having undertaken appropriate investigation and, where potential risk is identified, appropriate mitigation has been recommended. No significant contamination has been identified and the mitigation measures recommended are conventional and commonly implemented on many sites.

2.1.3 I note that no statutory consultees objected to the proposals on grounds of land contamination, subject to appropriate planning conditions being imposed.

2.1.4 With regard to third party representations, I consider that measures are already proposed to address the concerns raised in an appropriate manner.

2.1.5 It is my opinion that the application accords with the NPPF and the relevant statutory and regulatory requirements relating to land contamination, and that there is no justification for the application to be refused on the basis of land contamination risk.

Rodgers Leask Limited & Rodgers Leask Environmental Limited
01332 285000 • rlderby@rodgersleask.co.uk • **rodgersleask.co.uk**
St James House, St Mary's Wharf, Mansfield Road, Derby DE1 3TQ
Seven House, 18 High Street, Longbridge, Birmingham B31 2UQ