Mr Sam Muir
Development Advice & Control
Ashfield District Council
Urban Road
Kirkby-in-Ashfield
Nottingham
NG17 8DA

Our ref: LT/2022/127177/01-L01
Your ref: V/2022/0629

Date: 12 September 2022

Dear Mr Muir

OUTLINE WITH RESERVED MATTERS - ACCESS - RESIDENTIAL DEVELOPMENT OF UP TO 300 DWELLINGS

LAND AT JUNCTION OF NEWARK ROAD, COXMOOR ROAD, SUTTON IN ASHFIELD, NOTTINGHAMSHIRE

Thank you for consulting us on the above application.

Environment Agency position
We have reviewed the "Phase 1 Geo-Environmental Desk Study" report produced by Rodgers Leask, dated February 2022 (ref: P22-070), which has been submitted in support of this application.
We are aware that previous Desk Study reports have been produced by Rogers Leask for the site to support planning applications in 2017. In these previous Desk Study reports, recommendations for groundwater monitoring were made, and there was an acknowledgement that chemical analysis of groundwater may be necessary.
Whilst this more recent Desk Study report recommends an intrusive investigation to help further assess controlled waters risks (amongst other risks), it is less descriptive about whether groundwater monitoring or analysis will be undertaken.
Given the historic landfill on site and the sensitivity of the groundwater in this location (principal aquifer and within a Source Protection Zone), we would be expecting groundwater analysis to inform future assessments of risks posed to controlled waters at this site.

Please note that in making our response, the Groundwater and Contaminated Land Team of the Environment Agency has considered risks posed to controlled waters only. The Local Environmental Health Officer must be contacted with regards to other risks, such as those posed to human health (for example from the migration of landfill gas). We believe that it is critical for early liaison with the Local Authority Environmental Health Department given the presence of the historic landfill on the site, and the proximity of an authorised landfill site to the proposed development.

We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included as set out below. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

Contamination

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 preliminary risk assessment which has identified:
• all previous uses
• potential contaminants associated with those uses
• a conceptual model of the site indicating sources, pathways and receptors
• potentially unacceptable risks arising from contamination at the site
2. A site investigation scheme, based on (1) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off-site.
3. The results of the site investigation and the detailed risk assessment referred to in (2) 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.
4. 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 (3) 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.

Reasons
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 (NPPF).
Note: Part 1 of this condition has been satisfied by the submission of the Phase 1 Desk Study Report produced by Rogers Leask. Further action is required under the remaining parts of the condition.

Condition
Prior to any part of the permitted development being brought into use, a verification report demonstrating the 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.

Reasons
To ensure that the site does not pose any further risk to 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 174 of the Nation Planning Policy Framework.

Condition
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 a remediation strategy detailing how this contamination will be dealt with has been submitted to, and approved in writing by, the Local Planning Authority. The remediation strategy shall be implemented as approved.

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Reasons
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 from previously unidentified contamination sources at the development site. This is in line with paragraph 174 of the National Planning Policy Framework.

Condition
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.

Reasons
Piling can result in risks to groundwater quality from, for example, 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.
If Piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with Environment Agency guidance document “Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73”.

Drainage
The information submitted in support of the application indicates that foul drainage will discharge to mains foul sewer. We have no objection to this proposal.
We understand that the infiltration capacity of the soil is not sufficient to utilise infiltration drainage techniques at this site. In the event that the drainage strategy changes to incorporate infiltration techniques, the condition outlined below should be attached to any permission granted.
We also note that an attenuation pond is proposed in the location of the historic landfill, and we believe it is necessary for further design details to be provided for this pond to ensure that leakages will not occur. Leakage of this pond into landfill materials could pose contamination risks to controlled waters, and also promote the generation of landfill gas.

Condition
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.

Reasons
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 174 of the National Planning Policy Framework.

Informatives

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 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 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 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 the Hazardous Waste pages on GOV.UK for more information.

Waste on Site
The CLAIRE 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 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.
The Environment Agency recommends that developers should refer to:
•the Position statement on the Definition of Waste: Development Industry Code of Practice and;
•The Environmental regulations page on GOV.UK

The proposed development is located on or within 250m 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.

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 no previous evidence of landfill gas migration from the site that could affect the proposed development. This environmental

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monitoring data from the site is available on our public register.
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.

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

There is also a historic landfill located on the site of the proposed development. This was licensed to receive inert waste and the permit surrendered in 1992.

Severn Trent Water should be consulted by the Local Planning Authority and be requested to demonstrate that the sewerage and sewage disposal systems serving the development have sufficient capacity to accommodate the additional flows, generated as a result of the development, without causing pollution.

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

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