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13/05/2021

Annwyl Syr/Madam / Dear Sir/Madam,

BWRIAD / PROPOSAL: Construction of 4 storage units

LLEOLIAD / LOCATION: The Willows Abercanaid Industrial Estate, Abercanaid

Thank you for consulting Cyfoeth Naturiol Cymru / Natural Resources Wales about the above, which we received on 24 April 2021.

We continue to have significant concerns with the proposed development as submitted. We recommend you should only grant planning permission if the following requirement is met.

Requirement - Land Potentially affected by Contamination – Details of site remediation

Land Potentially affected by Contamination

We have reviewed the following documents submitted in support of the application:

1. Willow Works, Merthyr Tydfil – Factual Site Investigation Report (Mentor No. 015018). WSP Environmental, July 2002.
2. Willow Works, Merthyr Tydfil – Factual Site Investigation Report. Celtic, R1538/12/4337 (Final), January 2013.

We note that both the reports are factual site investigation reports and do not contain any interpretation or discussion on the risk to controlled waters - the sensitive receptors of groundwater and River Taff (known to be in hydraulic connection with the site). We advise that an assessment of risk to controlled waters should be included in the summary (technical note).

In addition, it is still unclear where the planning application boundaries or red line boundary is on any of the maps supplied in relation to the remediation of the site. We advise that the

planning application area or redline boundary be annotated on drawing number “D1538/4337/A3:Rev2:12/12/12 – Approximate Location of Exploration Boreholes” and submitted with a summary (technical note) of the site conditions found and remediation that occurred within the redline boundary.

However, if your Authority is minded to grant permission, and the above cannot be provided, we advise the following conditions are included on any permission you are minded to grant.

Condition1

No development or phase of development shall commence until the following components of a scheme to deal with the risks associated with contamination at the site, has been submitted to and approved in writing by the Local Planning Authority.

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.

The remediation strategy and its relevant components shall be carried out in accordance with the approved details.

Justification: To ensure the risks associated with contamination at the site have been fully considered prior to commencement of development, as controlled waters are of high environmental sensitivity; and where necessary remediation measures and long-term monitoring are implemented to prevent unacceptable risks from contamination.

Condition 2 - Contamination verification report

Prior to the occupation or operation of the development or phase of development 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 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 carried out in accordance with the approved details.

Justification: To ensure the methods identified in the verification plan have been implemented and completed and the risk associated with the contamination at the site has been remediated prior to occupation or operation. To minimise the risks to both future users of the land and neighbouring land, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors.

Condition 3: Long term monitoring

Prior to the occupation or operation of the development or phase of development, a long-term monitoring plan for land contamination shall be submitted and approved in writing by the Local Planning Authority. The long-term monitoring plan should include:

- Details of the methods and triggers for action to be undertaken
- Timescales for the long-term monitoring and curtailment mechanisms e.g. a scheme of monitoring for 3 years unless the monitoring reports indicate that subsequent monitoring is or is not required (for x years)
- Timescales for submission of monitoring reports to the LPA e.g. annually
- Details of any necessary contingency and remedial actions and timescales for actions
- Details confirming that the contingency and remedial actions have been carried out.

The monitoring plan shall be carried out in accordance with the approved details, within the agreed timescales.

Justification: A long term monitoring plan should be submitted prior to occupation or operation, to ensure necessary monitoring measures are approved to manage any potential adverse impacts as a result of development on controlled waters.

Condition 4- Unsuspected 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 a remediation strategy detailing how this unsuspected contamination shall be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be carried out as approved.

Justification: To ensure the risks associated with previously unsuspected contamination at the site are dealt with through a remediation strategy, to minimise the risk to both future users of the land and neighbouring land, and to ensure that the development can be carried out safely without unacceptable risks. A site investigation may not uncover all instances of contamination and this condition ensures that contamination encountered during the development phase is dealt with appropriately.

Informative/ advice to applicant

We recommend that developers should:

1. Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
2. Refer to the Environment Agency's '[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. Refer to the [Environment Agency's \(2018\) 'Approach to Groundwater Protection'](#)

In addition, the treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an environmental permit.

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, Natural Resources Wales should be contacted for advice at an early stage to avoid any delays.

We also note it is proposed to dispose of surface water to soakaway. We advise against the use of soakaways if the ground is contaminated. If contamination is suspected an alternative method of drainage should be investigated.

Flood risk Management

The planning application proposes less vulnerable development (storage units). Our Flood Risk Map confirms the site to be within Zone C2 of the Development Advice Map (DAM) contained in TAN15 and the 1% (1 in 100 year) and 0.1% (1 in 1000 year) annual probability fluvial flood outlines of the River Taff.

Section 6 of TAN15 requires the Local Planning Authority to determine whether the development at this location is justified. Therefore, we refer you to the tests set out in section 6.2 of TAN15. If you consider the proposal meets the tests set out in criteria (i) to (iii), then the final test (iv) is for the applicant to demonstrate through the submission of an FCA that the potential consequences of flooding can be managed to an acceptable level.

The Flood Consequences Assessment CA undertaken by WHS, dated December 2020, reference WHS1800, indicated the site to be levelled to 158.35m (section 4.3) and the current topography was between 158.3 and 158.7mAOD.

We note the submission of a revised existing site level plan (Existing Site Levels February 2021) which shows most of the existing spot levels to be above the proposed site level of 158.35mAOD. As such we have no further comments on this matter and consider the proposed levelling of the site is unlikely to adversely impact flood risk to the surrounding area.

A1.14 Criteria

Based on the site level of 158.35m AOD and the proposed units set at 158.64m AOD, the proposed development is predicted to be flood free in the 1% (1 in 100 year) plus climate change allowance (25%) flood event based on the flood level of 158.34m AOD, therefore in line with the criteria set out at A1.14 of TAN15.

Additional comments on flood risk management

Based on the predicted 0.1% (1 in 1000 year) flood level of 158.49m AOD and the proposed site level of 158.35m AOD the site is predicted to flood to a depth of 140mm during this event. However, this is within the indicative tolerable conditions (i.e.<600mm) set out at A1.15 of TAN15. The proposed units are predicted to be flood free during this event.

The velocity during the 0.1% (1 in 1000 year) flood event is stated as 0.26m/s, which is within the indicative tolerable conditions set out in A1.14 of TAN15. This figure is modelled using the existing ground level rather than the proposed of 158.35m AOD.

Section 4.6 of the FCA, shows that access and egress routes are subject to flood depths of 80mm and 300mm for the 1% (1 in 100 year) plus CCA and the 0.1% (1 in 1000 year) events.

TAN15 advises that access routes should be shown to be operational under all conditions. It is for your authority to determine whether you consider this risk to be acceptable. Please note, we do not comment on whether safe access and egress can be achieved to and from a site as this is a matter for emergency services to determine.

Section 4.5 of the FCA proposes an emergency flood plan and advises that occupiers register for Flood Warnings.

As it is for your Authority to determine whether the risks and consequences of flooding can be managed in accordance with TAN15, we recommend you consider consulting other professional advisors on matters such as emergency plans, procedures and measures to address structural damage that may result from flooding. Please note, we do not normally comment on the adequacy of flood emergency response plans and procedures accompanying development proposals, as we do not carry out these roles during a flood. Our involvement during a flood emergency would be limited to delivering flood warnings to occupants/users.

Other Matters

Our comments above only relate specifically to matters included on our checklist, *Development Planning Advisory Service: Consultation Topics* (September 2018), which is published on our [website](#). We have not considered potential effects on other matters and do not rule out the potential for the proposed development to affect other interests.

We advise the applicant that, in addition to planning permission, it is their responsibility to ensure they secure all other permits/consents/licences relevant to their development. Please refer to our [website](#) for further details.

If you have any queries on the above, please do not hesitate to contact us.

Yn gywir / Yours faithfully

Mrs Claire McCorkindale

Cynghorydd - Cynllunio Datblygu / Advisor - Development Planning
Cyfoeth Naturiol Cymru / Natural Resources Wales