

Ms Rebekah Morgan  
Cherwell District Council  
Planning Policy  
Bodicote House White Post Road  
Bodicote  
Banbury  
OX15 4AA

**Our ref:** WA/2016/122898/08-L01  
**Your ref:** 16/00472/OUT  
**Date:** 02 July 2020

Dear Ms Morgan

### **Proposed residential redevelopment for approximately 200 units**

**S Grundon Services Ltd, Merton Street, Banbury, OX16 4RN**

Thank you for re-consulting us on the above application on 15 June 2020. We have reviewed the information submitted and have the following comments to make.

#### **Environment Agency position**

The proposed development will be acceptable if the following **conditions** are included on the planning permission's decision notice. Without these conditions we would object to the proposal due to its adverse impact on the environment.

#### **Condition 1**

Prior to the approval of reserved matters, a flood water compensation scheme shall be submitted to and approved in writing by the Local Planning Authority. With other details, the scheme shall include:

1. Calculations, assessment and details of the proposed flood water storage areas and methods used to provide the required compensation. Our preferred approach is level for level compensation, however if this is not achievable volumetric compensation may be acceptable;
2. A phasing plan demonstrating installation and completion of the compensatory flood water storage areas prior to construction of any of the proposed dwellings on site;
3. A maintenance strategy explaining how the flood water storage areas will remain clear and operational for the life time of the development;
4. Details of the floodable undercroft parking areas. We will need to see that openings are provided which will be a minimum of one metre wide and that there will be one opening in every five metre length of wall on all sides of each of the proposed buildings. These openings will need to remain open to flood water for the lifetime of the development and the slab level above these area will need to be set no lower than 90.45m AOD (at the southeast end of the site) and 90.85m AOD (at the north-west end of the site).

The scheme(s) shall be fully implemented and subsequently maintained, in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

### **Reason 1**

This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere. In particular to:

- To prevent flooding elsewhere by ensuring that compensatory storage of flood water is provided.

### **Condition 2**

Finished floor levels shall be set no lower than 90.45m AOD (at the southeast end of the site) and 90.85m AOD (at the north-west end of the site) as stated within paragraph 5.1.2 of the Flood Risk Assessment, prepared by Peter Brett Associates, reference 33390/4001, revision A, dated 3 October 2017.

### **Reason 2**

This condition is sought in accordance with paragraph 163 of the National Planning Policy Framework to reduce the risk of flooding on-site and elsewhere. In particular to:

- To reduce the risk of flooding to the proposed development and future occupants.

### **Condition 3**

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.

### **Reason 3**

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 170 of the National Planning Policy Framework. The site was a former gasworks and known to be highly contaminated so poses a risk to controlled waters

### **Condition 4**

Prior to each phase of development being occupied, 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.

### **Reason 4**

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 170 of the National Planning Policy Framework.

The PBA FRA indicates in section 6.2.4 that infiltration drainage will not be acceptable on this site we would agree with this statement. In addition any infiltration drainage would require a modification of the DQRA which is based on low infiltration rates on the site. However because the FRA has not been accepted we will request the following condition from a precautionary approach.

In light of the above, we do not believe that the use of infiltration SuDS is appropriate in this location. We therefore request that the following planning condition is included as part of any permission granted. Without this condition we would object to the proposal in line with paragraph 170 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 5**

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.

### **Reason 5**

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 170 of the National Planning Policy Framework. Infiltration in areas of contaminated soils and groundwater has the potential to mobilise pollution.

### **Advice to applicant**

#### Contaminated Land

We have reviewed the Site Investigation Interpretative report, prepared by Celtic, dated June 2012, the Quantitative Risk Assessment report, prepared by Celtic, dated March 2011, the Contractors Proposals, prepared by Knowl Hill Limited, dated August 2015 and the Environmental Synopsis report, prepared by Foresite Projects Limited, dated May 2016.

We note that these reports are all several years old and with them there are a number of older site investigation reports relating to the former Banbury Gasworks. In addition the development boundary covered by the Celtic Reports is smaller than the proposed development which includes an additional area to the north of the site of a former waste transfer facility. Therefore we feel the site has not been fully characterised both in terms of area, and to some extent time, from the perspective of contamination. There could be some areas of fuel storage in the waste transfer facility not covered by site recent site investigation or the Detailed Quantitative Risk Assessment (DQRA).

Having said this from the perspective of contamination, we note that the area of the former gasworks which would be expected to have the highest level of contamination was included in the Celtic reports. We accept the results of the DQRA with one exception. The impact of ammonium on groundwater is dismissed in section 7.3.2 of the interpretative report as being 'a global issue rather than site wide'. There is no basis given for this assertion. We accept ammonium appears to be widespread on the site rather than specific point sources but this is probably related to its solubility in groundwater. However former gasworks are the most likely source of the ammonium contamination, and since this site contains the majority of the former gasworks it is the most likely source area. Therefore we do not think ammonium contamination should be excluded from consideration of remedial works.

We accept that remedial works should concentrate on the former gasworks structures and free phase removal is vital in areas such as former tar tanks. The remedial processes outlined in the Knowl Hill report are acceptable and we note that some of these mentioned in section 4.2.3 may require an Environmental Permit. Therefore given the points made above we think there will need to be some amendments to the submitted reports, so we will require the following conditions.

#### Environmental permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit or exemption 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)
- in a floodplain more than 8 metres from the river bank, culvert or flood defence structure (16 metres if it's a tidal main river) and you don't already have 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 (Monday to Friday, 8am to 6pm) or by emailing [enquiries@environmentagency.gov.uk](mailto:enquiries@environmentagency.gov.uk)

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.

#### **Final comments**

Should you require any additional information, or wish to discuss these matters further, please do not hesitate to contact me on the number below.

Yours sincerely

**Mr Samuel Pocock**  
**Planning Advisor**

Direct dial 0208 474 5075

Direct e-mail [Planning\\_THM@environment-agency.gov.uk](mailto:Planning_THM@environment-agency.gov.uk)