

Bury Metropolitan Borough Council  
Town Hall  
Knowsley Street  
Bury  
Lancashire  
BL9 0SW

**Our ref:** SO/2022/122258/01-L01  
**Your ref:** 68541

**Date:** 03 September 2022

Dear Helen Leach

**CONSTRUCTION OF AN EARTH EMBANKMENT TO CONNECT AN EXISTING LOW FLOOD DEFENCE WALL TO THE NORTH TO HIGH GROUND TO THE SOUTH - THE STRUCTURE WILL ACT TO COMPLETE A FLOOD DEFENCE STRUCTURE TO THE PRIVATE PREMISES TO THE NORTH.**

**LAND TO WEST OF BURY ROAD/WARTHROAD/HARDYS GATE/YORK STREET, RADCLIFFE, M26 2GL.**

Thank you for consulting us on the above application, on 01 July 2022.

**Environment Agency Position**

We have no objection in principle to the proposed development but take this opportunity to provide the following comments.

**Contaminated Land**

We welcome the submission of the Flood Risk Management Scheme (FRMS) Environmental Assessment Report (Prepared by Mott MacDonald, dated May 2020). However, we note that it does not cover the proposed construction of an earth embankment to connect an existing low flood defence wall to the north to high ground to the south on land to west of Bury Road/Warth Road/Hardys Gate/York Street, Radcliffe as shown on diagram ENV0000389C BMM DZ 4BP DR T 0805017.

The submissions to date demonstrate that it will be possible to manage the risks posed to controlled waters by this development. Further detailed information will however be required before built development is undertaken. We believe that it would place an unreasonable burden on the developer to ask for more detailed information prior to the granting of planning permission but respect that this is a decision for the local planning authority.

In light of the above, the proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy. This should be carried out by a competent person in line with paragraph 178 of the National Planning Policy Framework.

Without these conditions 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**

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. Where necessary, 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**

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.

### **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.

### **Reason**

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.

### **Biodiversity**

We welcome the submission of a design that maximises an undeveloped greenspace buffer along key River Irwell riparian ecological network, the Badger method statement (Sec. 5 & 6, Capita, May 2022) and that areas of disturbed River Irwell riparian corridor will be fully reinstated and soft landscaped with appropriate native species including wildflower seeding of new flood embankment (Planning Statement prepared by Mott MacDonald, dated May 2022).

We note that this will tie into a planning approved alignment (Bury Reference 68368) of the adjoining and set-back raised residential development platform.

Based on the identified presence of number of invasive non-native plants species in proximity to the working footprint, an invasive management plan should be adopted as part of scheme construction.

The proposed development will therefore be acceptable if a planning condition is included requiring a method statement to be agreed to put appropriate control measures in place regarding the invasive species Japanese knotweed, Giant hogweed, Himalayan Balsam & Giant knotweed present.

### **Condition**

No development until a detailed method statement for removing or the long-term management / control of Japanese knotweed, Giant hogweed, Himalayan Balsam & Giant knotweed identified on the site (Mott MacDonald, dated July 2020) shall be submitted to and approved in writing by the local planning authority.

The method statement shall include proposed measures that will be used to prevent the spread of these species during any operations, including mowing, strimming, bank regrading or soil movement. The method statement shall also contain measures to ensure that any soils brought to the site are free of the seeds / root / stem of any invasive plant covered under the Wildlife and Countryside Act 1981, as amended.

Development shall proceed in accordance with the approved method statement.

### **Reasons**

This condition is necessary to prevent the spread of Japanese knotweed, Giant hogweed, Himalayan Balsam & Giant knotweed which are invasive species. Without it, avoidable damage could be caused to the nature conservation value of the site contrary to national planning policy as set out in the National Planning Policy Framework paragraph 170, where planning decisions should contribute to and enhance the natural and local environment & 174, plans should promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity

### **Flood Risk**

With reference to the submitted Flood Risk Assessment (Reference ENV0000389C-BMM-DZ-4ZZ-RP-Z-0215016-S2-P04, dated 24 January 2022), we understand that design proposals for flood risk management measures for Hardy's Gate Bridge and Swan Lodge are still under review and may change to that identified in red text.

Our previous comments to the applications for development of the York Street site noted the importance of ensuring appropriate tie-in arrangements to the Radcliffe and Redvales flood risk management scheme proposals. These proposals are part of ensuring defences are consistent.

### **Informatives**

Further to the above, please see outlined below informatives which should be used to inform and advise development going forward.

### ***Environmental Permitting for work near the River Irwell***

This development will require a permit under the Environmental Permitting (England and Wales) Regulations 2016 from the Environment Agency for any proposed works or structures, in, under, over or within eight metres of the bank of the River Irwell which, is designated a 'main river'. Some activities are also now [excluded](#) or [exempt](#). A permit is separate to and in addition to any planning permission granted.

Further details and guidance are available at: [Flood risk activities: environmental permits - GOV.UK \(www.gov.uk\)](#)

### ***Contamination Model Procedures and good practice***

Due to the former land use(s), soil and /or groundwater contamination may exist at the site. We recommend that developers should complete the following to address the associated risks to controlled waters:

- Follow the risk management framework provided in Guidance on Land contamination risk management (LCRM) [Land contamination risk management \(LCRM\) - GOV.UK \(www.gov.uk\)](#), when dealing with land affected by contamination
- 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
- 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
- Refer to the [contaminated land](#) pages on gov.uk for more information
- Refer to [‘The Environment Agency’s approach to groundwater protection’](#)

All investigations of land potentially affected by contamination should be carried out by or under the direction of a suitably qualified competent person and in accordance with BS 10175 (2001) Code of practice for the investigation of potentially contaminated sites.

Where the remediation / redevelopment of the site will involve waste management issues we offer the following advice:

#### ***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 is waste or has ceased to be waste. Under the Code of Practice:

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

For more information, please refer to [Hazardous waste: Producers and holders - GOV.UK \(www.gov.uk\)](#)

### ***Dewatering***

Dewatering is the removal/abstraction of water (predominantly, but not confined to, groundwater) in order to locally lower water levels near the excavation. This can allow operations to take place, such as mining, quarrying, building, engineering works or other operations, whether underground or on the surface. Any dewatering activities on-site could have an impact upon local wells, water supplies and/or nearby watercourses and environmental interests.

This activity was previously exempt from requiring an abstraction licence. Since 1 January 2018, most cases of new planned dewatering operations above 20 cubic metres a day will require a water abstraction licence from us prior to the commencement of dewatering activities at the site.

More information is available at: [Apply for a water abstraction or impounding licence - GOV.UK \(www.gov.uk\)](#)

### ***Regulatory position statements***

If dewatering and discharging into surface water is required during development, the following Regulatory Position Statement will apply: [Temporary dewatering from excavations to surface water - GOV.UK \(www.gov.uk\)](#)

### ***Seeking additional advice and support***

As there may be challenging technical issues regarding this development, we have introduced a chargeable scheme whereby detailed technical advice and guidance can

be sought from a dedicated technical officer in the groundwater and contaminated land team for the duration of the project.

We are keen to work with you early in the development process to resolving any problems or issues that may occur so that delays are minimise or avoided. Should you wish us to work with you on your development and undertake a detailed review of reports or provide further, technical, advice to address the land contamination issues, we can do this as part of our charged service. Further detailed engagement can speed up the formal planning application process and provide you with certainty as to what our response to your future planning application will be.

Enhanced advice and guidance should also result in a better quality and, more environmentally sensitive development. As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems.

We currently charge £100per hour. We will provide you with an estimated cost for any further discussions or review of documents.

The terms and conditions of our charged for service are available upon request and we recommend that you contact us at [SPPlanning.RFH@environment-agency.gov.uk](mailto:SPPlanning.RFH@environment-agency.gov.uk)

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Should you have any queries regarding this response, please do not hesitate to contact me.

Yours sincerely,

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