

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

Our ref: SO/2021/121211/01-L01
Your ref: 66947
Date: 08 September 2021

Dear Sir/Madam

PROPOSED WORKS FOR AND USE OF REPLACEMENT SECTION OF AQUEDUCT, INCLUDING EARTHWORKS AND ANCILLARY INFRASTRUCTURE INCLUDING: NEW VALVE HOUSE BUILDINGS AND KIOSK WITH PERMANENT VEHICULAR ACCESS PROVISION; INSTALLATION OF TUNNEL SHAFTS AND OPEN CUT CONNECTION AREAS WITHIN A TEMPORARY CONSTRUCTION COMPOUND, TO INCLUDE SITE ACCESS, STORAGE AREAS, PLANT AND MACHINERY, DRAINAGE INFRASTRUCTURE AND A RESIDENTS' PARKING AREA. IN ADDITION, MINE GROUTING WORKS, TO FACILITATE MAIN TUNNELLING WORKS. LAND TO EAST OF M66 MOTORWAY, CONNECTING ROCHDALE ROAD, EDENFIELD TO WOODGATE HILL WTW COMPOUND, BURY

Thank you for consulting us on the above application.

We have reviewed the documents accompanying the application in so far as they relate to our remit, including the Environmental Statement (Volume 2, Haweswater Aqueduct Resilience Programme – Proposed Haslingden and Walmersley Section, reference, HBC_RBC_BMBC-HW-ES-001, Rev. 0, dated May 2021).

Environment Agency position

We have no objection to the proposed development but we wish to make the following comments and we request that any subsequent approval includes the conditions recommended below:-

Waste management

The Environmental Statement (ES), for the Proposed Haslingden and Walmersley Section of the Haweswater Aqueduct Resilience Programme (HARP), provides

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incomplete information on materials, waste impact assessment and mitigation measures.

The materials assessment contains no information on the drilling/boring fluid composition, no information on the types and quantities of chemicals used in the project and how those are going to be managed, no information on the volumes and source of water to be used in drilling/boring. There is no information on the measures considered for the minimisation of volumes/quantities of materials required. Attention should be given to the potential impact on the environment and communities of the materials brought, produced, used, and managed at the shafts, mine grouting areas and other remedial works, site compounds and laydown areas (i.e. construction materials, chemicals, fuels, oils) et al.

The estimate of the volumes/quantities of hazardous, non-hazardous and inert waste generated by tunnelling should be reviewed and it should be understood that inert waste can be hazardous. Paragraph 62 states that United Utilities soil sampling identified ratios to identify the type of surplus excavated materials and estimate inert, hazardous, and non-hazardous waste quantities. It is assumed that the surplus excavated materials consist of 95% inert, 1% hazardous and 4% non-hazardous. There is no information on what exactly has been sampled and how it was assessed so an extrapolation of the sampling data to the whole waste arising from tunnelling was considered appropriate. Information from the type of ground/soil/subsoil it will be bored through, information about the boring fluid, and about the general waste management principles, procedures and practices used on site would have probably given a better understanding of the tunnel waste nature and composition.

Chapter 12 of the ES provides little information on types and quantities of waste generated other than waste arising from excavation. It goes on to assess the impact of this section of the project and the project overall on the combined inert waste capacity of the North West, Yorkshire and the Humber regions up to 2030. Waste should be disposed of locally in the first instance so the effect on the North West region inert waste capacity should be considered first, and the associated costs and impacts of disposal outside the North West region would then need to be assessed.

The Environmental Statement states that no major infrastructure projects or developments have been identified within the regions discussed in this assessment, no other major developments have been identified that would impact the capacity of the regional waste infrastructure. It would be useful to include what this investigation consisted of and what steps have been taken to identify other developments that might have a cumulative impact with HARP. It should be considered that the landfill capacity in the regions looked at receiving waste as far away as the Midlands and London so may even be impacted by major developments in those areas.

Further consideration of the impacts of waste arising from the project will be required. A thorough understanding of waste types and quantities that might be generated should be considered along with any further measures/actions to minimise the waste generated and ensure that all waste management options are considered. The effectiveness of the identified mitigating measures should be also assessed and updated should more detailed information require them to be reviewed.

Given the above, we recommend that any subsequent approval is conditioned as follows:-

Condition

Prior to the commencement of construction work a Materials Management Plan shall be submitted to, and approved by the Local Planning Authority. For the purposes of this condition the term 'construction work' shall be taken to include any works to include works to prepare the site for development including site access points, haul roads and compound areas but excluding site investigation work. The materials management plan shall be developed following the site investigations and risk assessments and shall:

- a. Identify all locations from which material will be excavated;
- b. Utilising the information contained within the contaminated land investigation, identify those areas of excavation which are contaminated
- c. For areas of excavation which may be subject to contamination estimate the volume of material arising, the approximate volumes of material to be remediated on site and provisional volume to be disposed of off-site;
- d. Illustrate where and how the remediation of contaminated material would take place;
- e. Illustrate where and how remediated material would be re-used, including volumetric calculations to demonstrate that the material can be accommodated within the proposed area of use and any measures for containment for this material;
- f. Detail the frequency of testing and testing specification for soils generated during the cut and fill operations, including how the materials are to be segregated and stored;
- g. Identify screening criteria for assessment of whether the materials can be reused without treatment or mitigation;
- h. For areas of excavation which are not subject to contamination provide the volume of material arising, and illustrate where and how non-contaminated material would be re-used including volumetric calculations to demonstrate that the material can be accommodated within the proposed area.

Once approved the materials management plan shall be implemented in its entirety.

Reason

To ensure the proposed development does not pose an unacceptable risk of pollution to controlled waters

Condition

Prior to the commencement of construction work, a Site Waste Management Plan (SWMP) shall be submitted to and approved by the Local Planning Authority. For the purposes of this condition the term 'construction work' shall be taken to include any works to prepare the site for development including site access points, haul roads and compound areas but excluding site investigation. The Site Waste Management Plan shall include details of:

- a. the anticipated nature and volumes of waste that will be generated by construction work;
- b. the measures to minimise the generation of waste as a result of the proposed works;
- c. measures to maximise the re-use on-site of such waste;
- d. measures to be taken to ensure effective segregation at source of other waste arising during the carrying out of such works, including the provision of waste sorting, storage, recovery and recycling facilities as appropriate

The approved SWMP shall be implemented throughout the period of construction work on site.

Reason

To ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters through the inappropriate management of waste on site

Advice to applicant

Where a development involves any significant construction or related activities, we would recommend using a management and reporting system to minimise and track the fate of construction wastes, such as that set out in PAS402: 2013, or an appropriate equivalent assurance methodology. This should ensure that any waste contractors employed are suitably responsible in ensuring waste only goes to legitimate destinations. Site Waste Management Plans (SWMP) are no longer a legal requirement, however, in terms of meeting the objectives of the waste hierarchy and your duty of care, they are a useful tool and considered to be best practice. The developer must apply the waste hierarchy as a priority order of prevention, re-use, recycling before considering other recovery or disposal options. Government guidance on the waste hierarchy in England can be found here:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/69403/pb13530-waste-hierarchy-guidance.pdf

A deposit of waste to land will either be a disposal or a recovery activity. The legal test for recovery is set out in Article 3(15) of WFD as, *“any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function, or waste being prepared to fulfil that function, in the plant or in the wider economy”*. We have produced guidance on the recovery test which can be viewed at: <https://www.gov.uk/guidance/waste-recovery-plans-and-permits#waste-recovery-activities>

If materials that are potentially waste are to be used on-site, the applicant will need to ensure they can comply with the exclusion from the Waste Framework Directive (WFD) (article 2(1) (c)) for the use of, ‘uncontaminated soil and other naturally occurring material excavated in the course of construction activities, etc...’ in order for the material not to be considered as waste. Meeting these criteria will mean waste permitting requirements do not apply. Where the applicant cannot meet the criteria, they will be required to obtain the appropriate Environmental Permit or exemption from us for waste storage, treatment, transfer, use or disposal. More information on the definition of waste can be found here: <https://www.gov.uk/government/publications/legal-definition-of-waste-guidance>

More information on the use of waste in exempt activities can be found here: <https://www.gov.uk/government/collections/waste-exemptions-using-waste>

Non-waste activities are not regulated by us (i.e. activities carried out under the CL:ARE Code of Practice), however you will need to decide if materials meet End of Waste or By-products criteria (as defined by the WFD). The ‘Is it waste’ tool, allows you to make an assessment and can be found here:

<https://www.gov.uk/government/publications/isitwaste-tool-for-advice-on-the-by-products-and-end-of-waste-tests>

The law requires anyone dealing with waste to keep it safe and make sure it's dealt with responsibly and only given to businesses authorised to take it. The code of practice can be found at https://www.gov.uk/uploads/system/uploads/attachment_data/file/54444/waste-duty-care-code-practice-2016.pdf. The code of practice applies to you if you produce, carry, keep, dispose of, treat, import or have control of waste in England or Wales. The Environmental Protection (Duty of Care) Regulations 1991 for dealing with waste materials are applicable to any off-site movements of wastes.

Waste must be classified using the correct code from [Technical guidance WM3: waste classification](#). The guidance can be found here <https://www.gov.uk/government/publications/waste-classification-technical-guidance>. It is a comprehensive reference manual for anyone involved in producing, managing and regulating waste.

More information on the Waste Framework Directive can be found at <https://www.gov.uk/government/publications/environmental-permitting-guidance-the-waste-framework-directive>

More information on permitting can be found at <https://www.gov.uk/guidance/waste-environmental-permits>

Surface water quality

The ES identifies an increased risk posed to surface water receptors from fine sediment input (silt), however the mitigation section does not provide a detailed plan for the avoidance and management of this risk. This is a key risk from the project that has been highlighted at an early consultation stage and a robust management plan needs to be in place with monitoring and mitigation actions specified in advance so that the risk to surface water quality as well as ecological receptors (fish migration routes, eels, salmonids, coarse fish and crayfish) can be assessed.

Flood risk provisions in the proposed Construction Code of Practice submitted suggest the use of stand by pumps to remove surface water from working areas but there is no consideration of where any silty water arising from these working areas would be disposed of. While various options exist (treatment, removal from site or discharge to a local watercourse), the impacts of each option need to be considered to identify an appropriate solution.

During the works to pump water from the existing aqueduct, chlorine will need to be removed before any is discharged to watercourses. However the ES states if storage on site is exceeded, the water would be discharged without removing the chlorine. This could have adverse effects on the receiving watercourses including fish and crayfish. Assessment should be made and submitted for review which ensures sufficient storage capacity is available to avoid this impact.

More detail is required regarding how any elevated flow rates into receiving watercourses from compounds will be managed. This detail should include how these flows will be attenuated using the drainage ponds to ensure that scour and erosion does not damage existing bankside and in channel habitat within the receiving watercourses, impacting fish and crayfish habitat. More detail is required from the applicant to establish a sustainable flow rate for the receiving watercourses that does not result in these adverse impacts, a drainage plan should be developed to ensure discharges from the proposed works do not exceed this level.

Condition

Prior to the commencement of construction work a scheme detailing how surface water flows and quality will be controlled and managed during the construction phase of the development shall be submitted to and approved by the Local Planning Authority. For the purposes of this condition the term 'construction work' shall be taken to include any works to include works to prepare the site for development including site access points, haul roads and compound areas but excluding site investigation. The construction phase surface water management plan shall include the following and be implemented before construction starts:

- a. An assessment of potential flows that would need to be managed during construction, including flows from the existing aqueduct, construction compounds and access roads and as a result of any groundwater dewatering or tunnelling activities;
- b. Details of the measures which would be put in place to capture, manage, treat and discharge flows from the component parts of the site identified in part a.
- c. A programme for the installation, maintenance and removal of the measures set out in part b. This should include provision for adapting the mitigation if it proves not to be effective.
- d. An assessment of potential contaminants which may be present in surface water runoff, and measures to segregate this surface or ground water from clean runoff;
- e. Assessment of potential options to retain, test and treat or remove potentially contaminated surface water runoff during the works;
- f. Details of a monitoring scheme to be implemented to confirm that no contaminants are present in runoff from the site intended for discharge to controlled waters (before, during and post construction)
- g. Details of how existing surface waters will be protected from any surface and ground waters generated

Once approved, the construction phase surface water management plan shall be implemented in its entirety and remain for the duration of the development. Should a need for amendments to the plan be required as a result of changing conditions, these must be submitted to and approved by the LPA.

Reason

To ensure the construction activities associated with the proposed development do not pose an unacceptable risk of pollution to controlled waters and associated species and habitats

Dependant on the nature of discharges from the site, an Environmental Permit may be needed at the compounds to enable discharges to occur.

The project will likely need one or more Environmental Permits or Abstraction licences, issued under the Environmental Permitting Regulations and Water Resources Act respectively. The applicant should be aware that it can take between 4 to 6 months for such permits/licences to be issued, and we would recommend that an exercise to identify which permits are needed is completed as soon as possible and that applications are lodged with the Environment Agency well in advance of the permits being required.

We would welcome the opportunity to review and provide comment on the pollution prevention and environmental mitigation measures submitted to satisfy the above condition.

Fisheries and Biodiversity

The ES, in sections 7.0 & 20.1 (schedule of mitigation measures), Environmental Masterplan; as specified in Table 6 of the WFD assessment, indicates a commitment to adopt an environmental (water quality/geomorphological) monitoring programme and adaptive management strategy for the River Roch, WFD waterbody. It is essential that this is undertaken as there is still some uncertainty of the risks involved and the potential for deterioration.

It is currently unclear in the submitted reports (as design is ongoing) exactly which areas will be affected and which habitats will be lost / altered in some locations, this is essential to ensure the habitats currently at these locations are assessed for impact in the ES and the effect of their loss / change picked up in net gain assessments. This includes:

- Determining how many drainage ponds will be needed, their size and their final position. This needs to be resolved in order to provide reassurance that there is sufficient storage capacity preventing the need to directly discharge to watercourses without treatment and also understand the areas of existing habitat disturbed
- The decommissioning of the old aqueduct pipe is predicted to cause some changes to groundwater flows along its route, this could affect habitat quality in the vicinity. The applicant proposes a monitoring plan and mitigation if the impacts are detected. It would be appropriate to take a precautionary approach and ensure that mitigation options are explored and consulted on in advance. This is to ensure that mitigation is indeed possible if monitoring in the future shows it is required. The reports highlight that further assessment of impacts to GWDTE's are ongoing, these should be provided for consultation when available.
- The ES acknowledges that silt is likely to be generated from the construction areas and run off likely into watercourses. Wherever possible, wide margins of rough/tall vegetation should be retained along watercourses adjacent to working areas to help filter out silt before it reaches watercourses. Consideration should also be given to the use of silt mats/siltbuster equipment to reduce the amount of silt pollution reaching local watercourses.
- Section 9B of the ES - Aquatic Ecology; identifies the sediment risk to crayfish as significant, however doesn't pick up the same risk as significant for fish. We recommend this is updated and the impact to fish assessed.
- Air valves are proposed every 500 metres along the aqueduct length requiring a buried chamber and access cover, localised ground raising and grassed bank, but these locations are not specified and the works are not covered in the ES.
- Some of the top soil storage areas are marked on plans as provisional (if needed) but it is unclear whether the ES and the net gain assessment have picked up these areas for impact assessment or whether they are currently not included in the submitted assessments and will require clarification.

- The submitted planting schedule indicates that it will be resolved at detailed design. There is currently no information regarding seed mixes for reinstatement areas, therefore it is difficult to determine if these areas will be improved or decline in habitat quality after the works, this affects the Net Gain assessment. Please provide an updated planting schedule when available and cross reference with the Biodiversity Net Gain assessment.
- The net gain assessment submitted has not assessed river units, nor has it used full botanical survey information, therefore once the designs are finalised and impact areas known, an updated Biodiversity Net Gain assessment should be submitted and provided for consultation. If required, an updated off site mitigation plan to ensure at least 10% net gain is achieved should be submitted. The commitment to an identified habitat creation area in Bury is acknowledged.
- Bankside vegetation should be reinstated along watercourses using native species of local provenance as soon as possible to reinstate habitat and prevent bankside erosion. This should occur following disturbance during the construction phase, and following the removal of temporary culvert extensions and temporary outfalls.
- Biosecurity measures should be highlighted in the Code of Construction Practice due to the presence of invasive species such as Japanese Knotweed and the presence of non-native signal crayfish in watercourses.

Given the above, we would recommend the following condition:-

Condition

No development shall take place until a scheme for the provision and management of any compensatory habitat necessary to mitigate the impacts of the project has been submitted to, and agreed in writing by, the local planning authority and implemented as approved. Thereafter, the development shall be implemented in accordance with the approved scheme.

Reason

To ensure the protection of wildlife and supporting habitats and secure opportunities for enhancing the site's nature conservation value and delivering biodiversity net gain in line with local and national planning policy.

Flood risk

The planning application is accompanied by a Flood Risk Assessment (FRA) prepared by Jacobs referenced, HBC_RBC_BMBC-HW-TA-008-001, titled; Proposed Haslingden and Walmersley Section ES, Volume 4 Appendix 8.1: Flood Risk Assessment, May 2021). We have reviewed the FRA in so far as it relates to our remit and we are satisfied that the development would be safe without exacerbating flood risk elsewhere if the proposed flood risk mitigation measures are implemented. The proposed development must proceed in strict accordance with this FRA and the mitigation measures identified as it will form part of any subsequent planning approval. Any proposed changes to the approved FRA and / or the mitigation measures identified will require the submission of a revised FRA.

Ground Water and Contaminated land

Activities associated with the proposed development can result in risks to potable supplies from, for example, pollution/turbidity, risk of mobilising contamination, drilling through different aquifers and creating preferential pathways. Mitigation measures for groundwater are described in Section 7.7.3 and if the proposed development proceeds it must be in strict accordance with the mitigation methods identified. In addition, further information will be required to consider the following points:-

- The ES has identified several private water supplies (PWS). We note that little information is provided about these and therefore a detailed assessment cannot be completed. However, it is noted that field surveys and site visits are included in the mitigation section. The local authority listing should be obtained to check against although this will only identify abstractions for human consumption and it does not include other private water users. The BGS Waterwells database on Geoindex should also be checked for records.
- P35 (Section 71) states that there are no SPZs, however every potable groundwater supply has a default 50 metre Zone 1 designation.
- As previously stated grouting operations may need a permit under the Environmental Permitting Regulations 2016 unless we can deem the activity as de minimis under EPR 3(3), i.e. it has to be so small that it would not be discernible. For any large scale grouting operations of voids, appropriate investigations and tests will be required before a formal permit could be granted. This is to ensure that the groundwater is protected and any relevant receptors are not harmed. It is noted that the need for a detailed risk assessment is highlighted in the mitigation section.
- A detailed Groundwater Dependent Terrestrial Ecosystems (GWDTE) assessment has been completed for the 6 GWDTEs identified. The conclusions of the assessment of impacts on the GWDTEs are agreed with but as noted above, further risk assessments of grouting are to be undertaken and should further consider impacts on the GWDTE. Mitigation measures for groundwater are described in Section 7.7.3. If the proposed development proceeds it must be in strict accordance with the mitigation methods identified. The monitoring strategy identified in mitigation WE27 will need to be consulted on and agreed prior to the works going ahead.

Given the above, we would recommend the following condition:-

Condition

No development shall take place until a scheme to ensure that;

1. All private water supplies that may be impacted by the proposed development have been identified and any measures necessary to mitigate the impacts of the development on them have been agreed with the LPA;

Thereafter, the development shall be implemented in accordance with the approved scheme.

Reason

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To ensure that the proposed development does not harm the water environment in line with paragraph 174 of the National Planning Policy Framework

Advice to applicant

An abstraction licence is required for dewatering during all phases of the works when this is from a borehole, shaft or wellpoint system where >20m³/d of water is abstracted.

The dewatering exemption for small scale engineering works does apply when abstracting <100m³/d for up to 6 months but only if this dewatering is from a sump or excavation. If this dewatering is within 250 metres of a spring, well or borehole that is used to supply water for any lawful use then the exemption volume is reduced to 50 m³/d.

The dewatering for the shafts at Woodgate Hill WTW would both require an abstraction licence, as despite the smaller shaft dewatering at a rate of 6.5m³/d (i.e. <20m³/d volume threshold) dewatering at a rate of 120m³/d for the larger shaft would require a licence. It is not permitted to have a both an abstraction licence and an abstraction exemption at the same location.

Please be aware that there may be a delay of 6-8 months between applying for and receiving a licence and therefore a precautionary approach is recommended in case volumes are found to exceed those anticipated

Please send me a copy of the decision notice and forward a copy of this letter to applicant

Yours faithfully

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