

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

Our ref: SO/2024/124191/01-L01
Your ref: 70697

Date: 06 June 2024

Dear Sir/Madam

**ERECTION OF CAFÉ/SHOP (USE CLASS E), REBUILDING OF EXISTING
BOATHOUSE AND ASSOCIATED ACCESS ROAD, PARKING & LANDSCAPING**

PILSWORTH LAKE/FISHERIES, MOSS HALL ROAD, BURY, OL10 2RF.

Thank you for referring the above application to the Environment Agency. We have no objection in principle to the proposed development, but we wish to make the following comments.

Environment Agency position

Biodiversity

The ecological enhancements that have been outlined in D&A statement (Section 3.1, 6.1, 7.1 & 8.1, AA D Ltd, Jan 2024) and Ecological Assessment (Section 4.5 & 5.2, R. Hacking, April 2024) will require a long-term management plan to be in place. This will ensure the landscape provides a maximum benefit to people and the environment and achieves the statutory 10% biodiversity net gain across all relevant features.

Considering the above, the proposed development will only be acceptable if a planning condition requiring a landscape management scheme is included.

This approach is supported by paragraphs 180 and 186 of the National Planning Policy Framework (NPPF) which recognise that the planning system should conserve and enhance the environment by minimising impacts on and providing net gains for biodiversity. If significant harm resulting from a development cannot be avoided, adequately mitigated, or as a last resort compensated for, planning permission should be refused. Without this condition we would object to the proposal because it cannot be guaranteed that the development will not result in significant harm to local environment.

We welcome the adoption of multifunctional sustainable urban drainage solutions (filter drains, swales, rain gardens) as part of site wide surface water management.

We would also welcome opportunities to incorporate wider enhancements of the Brightley Brook waterbody and ecological receptor flowing through the site, and providing opportunities to improve connectivity along this key ecological network by looking at improving existing piped access crossing and/or opportunity to remove any redundant culverted sections of waterbody within the Pilsworth Fishery site. It is not necessary for the biodiversity management plan to be provided prior to the granting of planning permission, as this matter can be addressed by a planning condition

Condition

A landscape and ecological management plan (Biodiversity Management Plan), including long-term design objectives, management responsibilities and maintenance schedules for all landscaped areas (except privately owned domestic gardens), shall be submitted to, and approved in writing by, the local planning authority. The Biodiversity Management Plan shall be carried out as approved and any subsequent variations shall be agreed in writing by the local planning authority.

The scheme shall include the following elements:

- details of maintenance regimes for all retained and new habitats, including new above ground SUDs assets
- details of treatment of site boundaries and/or buffers, crossings along the Brightley Brook waterbody.
- details of management responsibilities

Reason(s)

To ensure the protection of wildlife and supporting habitat. Also, to secure opportunities for enhancing the site's nature conservation value in line with national planning policy, adopted JP-G3 & JP-G8 policy of the Greater Manchester Joint Development Plan & policy EN6 & 10 of the Bury UDP.

Contaminated Land

We have reviewed the following documents:

- Design and Access Statement (AA D Ltd., January 2024)
- Flood Risk Assessment (Expedition, 16th April 2024, Rev: 00)

The previous industrial use of the proposed development site as a cotton mill and bleach works poses a risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are sensitive in this location because the proposed development site is located upon a Secondary A Aquifer (Pennine Lower Coal Measures Formation) and adjacent to a main river (Brightley Brook).

The submitted documents 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.

Based on the information present, we believe planning permission could be granted if the following conditions are included as set out below. Without these conditions we would object to the proposal in line with paragraph 180 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. 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 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 180 of the National Planning Policy Framework.

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.

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 caused by mobilised contaminants. This is in line with paragraph 180 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 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 180 of the National Planning Policy Framework.

Advice to applicant

Model Procedures and good practice

This development site appears to have been the subject of past industrial activity which may pose a risk of pollution to controlled waters.

We recommend that you should:

- 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.

Waste on-site

The CL:AIRE Definition of Waste: Development Industry Code of Practice (version 2) provides operators with a framework for determining whether 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
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- 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. Refer to the hazardous waste pages on GOV.UK for more information.

Introduction of SUDS

Approved Document Part H of the Building Regulations 2000 establishes a hierarchy for surface water disposal, which encourages a SUDS approach. Under Approved Document Part H, the first option for surface water disposal should be the use of SUDS, which encourage infiltration such as soakaways or infiltration trenches. In all cases, it should be established that these options are feasible, can be adopted and properly maintained and would not lead to any other environmental problems. For example, using soakaways or other infiltration methods on contaminated land carries groundwater pollution risks and may not work in areas with a high-water table. Where the intention is to dispose to soakaway, these should be shown to work through an appropriate assessment carried out under Building Research Establishment (BRE) Digest 365.

Piling and Penetrative ground improvement methods

Piling or any other foundation designs using penetrative methods can result in risks to potable supplies from, for example, pollution / turbidity, risk of 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.

Environment Management

The proposed development will be acceptable if the following measure(s) are implemented and secured by way of a planning condition on any planning permission.

If you are the operator of a septic tank or small sewage treatment plant, you will not need a permit if you meet all the general binding rules that apply to you. The general binding rules set out the conditions in the Environmental Permitting Regulations 2016 that allow you to use a septic tank or sewage treatment plant without an environmental permit. This publication summarises these rules. - [Small sewage discharges in England: the general binding rules - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/small-sewage-discharges-in-england-the-general-binding-rules)

There's separate guidance on how to meet the general binding rules if your septic tank or small sewage treatment plant [discharges to a surface water](#).

You must also have the other permissions that you need to discharge to the environment legally, including:

- appropriate building regulations approval
- planning permission, where necessary

Condition

The development hereby permitted shall not be commenced until such time as a scheme to treat and remove suspended solids from surface water run-off during construction works has been submitted to, and approved in writing by, the local planning authority. The scheme shall be implemented as approved.

As construction is likely to produce high amounts of suspended solids, which can lead to the watercourse through surface water runoff, it is expected that the developers will put a robust system of measures in place to ensure that any surface water run off during construction is treated to a satisfactory level.

Under Regulations 12 and 38 of the Environmental Permitting (England & Wales) Regulations 2016, it is an offence to cause or knowingly permit a water discharge activity or groundwater activity without the benefit of an environmental permit. Therefore, only clean, and uncontaminated water from the site may be discharged into Brightley Brook.

Reason

To protect the water environment

Flood Risk

Advice to Applicant/ LPA

Flood mitigation -

The developer may wish to include measures to mitigate the impact of more extreme future flood events. Measures could include raising ground or finished floor levels and/ or incorporating flood proofing measures. The Environment Agency (EA) would recommend 300 mm freeboard for added flood resilience. Further guidance on preparing properties for flooding can be found at <https://www.gov.uk/government/publications/prepare-your-property-for-flooding>.

Environmental permit

The Environmental Permitting (England and Wales) Regulations 2016 require a permit 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)
- on or within 16 metres of a sea defence
- involving quarrying or excavation within 16 metres of any main river, flood defence (including a remote defence) or culvert
- in the floodplain of a main river if the activity could affect flood flow or storage and potential impacts are not controlled by a 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. 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.

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

Yours faithfully

Mrs. SYLVIA WHITTINGHAM
Planning Advisor

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