

## Annex 2: Environment Agency Comments

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Tonbridge & Malling Borough Council  
Development Control  
Gibson Building Gibson Drive  
Kings Hill  
West Malling  
ME19 4LZ

Our ref: KT/2019/125738/01-L01  
Your ref: 19/01067/FL  
Date: 19 June 2019

Dear Sir/Madam

**Redevelopment of the site to provide 10 x detached dwelling houses with associated parking, turning, landscaping and improvements to the access road**

**Scarbutts, London Road, Addington, West Malling Kent ME19 5AN**

Thank you for consulting the Environment Agency on the above. We do not have any objections to the planning application provided the following conditions are included on any planning permission granted. Without these conditions, the proposed development on this site poses an unacceptable risk to the environment and we would object to the application.

### Drainage

We note that surface water drainage will be directed to the local watercourse via Sustainable Drainage Systems features and that infiltration drainage has been ruled out on the grounds of contamination in the soils. As no infiltration drainage is proposed we have no objections on groundwater protection grounds. If there is a change proposed at a later stage we would of course have concerns given the reported ground contamination.

We have no comments regarding foul drainage as the proposal is to connect to the existing mains sewer.

### Land Contamination

We consider that planning permission could be granted to the proposed development as submitted if the following planning conditions are included:

#### Condition

No development approved by this planning permission shall take place until a remediation strategy that includes the following components to deal with the risks associated with contamination of the site shall each be submitted to and approved, in writing, by the local planning authority:

1. A preliminary risk assessment which has identified:
  - all previous uses

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- 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 express written consent of the local planning authority. The scheme shall be implemented as approved.

#### **Condition**

No occupation of any part of the permitted development shall take place until 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 any plan (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 implemented as approved.

#### **Reason**

To ensure development complies with the requirements of the National Planning Policy Framework (NPPF) in regard to screening for historic contamination that could present unacceptable risks to controlled waters, including groundwater in the underlying principal aquifer.

#### **Condition**

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 the developer has submitted a remediation strategy to the local planning authority detailing how this unsuspected contamination shall be dealt with and obtained written approval from the local planning authority. The remediation strategy shall be implemented as approved.

#### **Reason**

To ensure any contamination discovered during site work is appropriately assessed, and if necessary, remediated in consultation with the local authority and the Environment Agency. To ensure development complies with the NPPF in particular to protect groundwater in the underlying aquifers from any historic contamination

present on site.

#### **Condition**

Piling or any other foundation designs using penetrative methods shall not be permitted other than with the express written consent of the local planning authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

#### **Reason**

To protect groundwater in the underlying aquifers from pollution linked to inappropriate foundation works through made or contaminated ground.

With respect to any proposals for piling through made ground, we would refer you to the Environment Agency guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention". National Groundwater and Contaminated Land Centre Project NC/99/73. We suggest that approval of piling methodology is further discussed with the EA when the guidance has been utilised to design appropriate piling regimes at the site.

We have reviewed the following documents:

- Geoenvironmental and Geotechnical Interpretative Report (Revision 1) [Card Geotechnics Ltd, CG/28667, May 2019]
- Remediation Method Statement [Card Geotechnics Ltd, CG/28667A, May 2019]

In regard to the conclusions within the *Geoenvironmental and Geotechnical Interpretative Report*, we noted that concentrations of phenol, some Polycyclic Aromatic Hydrocarbons and Total Petroleum Hydrocarbons were elevated in the shallow alluvium aquifer, and phenol was also elevated within the deeper Hythe Formation principal aquifer. We agree with the report that the risk to known potable water supplies is low, given the absence of known groundwater abstractions in the immediate vicinity of the site, and because the site is outside any Source Protection Zones.

However, we are still concerned at these elevated concentrations in regard to other environmental receptors, such as the adjacent Leybourne Stream, and we are also concerned about the potential impacts on the groundwater in its own right. The report has not identified a definitive source for the contamination observed in the groundwater, indeed it speculates that the contaminant originates from an 'off-site source'. The difficulty we have in accepting this conclusion is the lack of monitoring data to make such a firm conclusion. The groundwater analysis was conducted on a single borehole (a groundwater flow direction cannot be proved without triangulation via 3 boreholes), and the soil sampling did not include soils beneath certain structures present on the site at the time of the investigation (thus an on-site source may still be found during demolition works).

Given the generally rural location, there are few possible locations for an off-site source, so in terms of this development we need to be reasonably satisfied that either the contamination is:

1. Not from an on-site source (so that we can follow up the suspected source site to achieve suitable remediation), or
2. Is of such a low risk to groundwater that immediate attention is not required.

We therefore request that a more detailed groundwater risk assessment is provided, to look at the potential groundwater concentrations expected to be found beyond the site boundary at a 50 metre compliance point in the Hythe Formation principal aquifer, and to provide further information on potential risks from shallow groundwater to the Leybourne Stream.

The *Remediation Method Statement*, in so far as it addresses the known soil contamination hotspots on the development site, is acceptable. However as noted above, the remediation strategy has been designed around an assumption that the groundwater contamination observed is acceptable without providing sufficient information to demonstrate so.

We therefore recommend that the proposed conditions listed above are not discharged until further information on the groundwater risks is provided to address our concerns.

#### **Decision notice**

We require decision notice details for this application, in order to report on our effectiveness in influencing the planning process. Please email decision notice details to [kslplanning@environment-agency.gov.uk](mailto:kslplanning@environment-agency.gov.uk)

Please do not hesitate to contact me should you require any further information.

Yours faithfully

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