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Lancashire County Council
Development Management Group
Environment Directorate
PO Box 100
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Lancashire
PR1 0LD

Our ref: NO/2023/115508/01-L01
Your ref: LCC/2023/0030
Date: 18 September 2023

Dear Mr Haine

THE EXTRACTION AND PROCESSING OF SAND AND GRAVEL INCLUDING THE CONSTRUCTION OF NEW SITE ACCESS ROADS, LANDSCAPING AND SCREENING BUNDS, MINERALS WASHING PLANT AND OTHER ASSOCIATED INFRASTRUCTURE WITH RESTORATION TO LEISURE END-USES, AGRICULTURAL LAND AND BIODIVERSITY ENHANCEMENT, USING IMPORTED INERT FILL.

LAND OFF BOURBLES LANE, PREESALL

Thank you for consulting us on the above application.

Environment Agency position

We have no objection to the development as proposed, subject to the inclusion of the below conditions relating to groundwater and fisheries/biodiversity. We also wish to make informative comments regarding flood risk and waste.

Groundwater and Contaminated Land

We have reviewed the following documents:

- Hydrogeological and Hydrological Assessment (aka HIA) for Proposed Mineral Extraction at Bourbles Farm prepared by hafrenwater (referenced 3133/HIA – version D3, dated June 2023)
- Non-technical Summary (NTS) prepared by Greenfield enviro (no reference, dated July 2023)

The NTS suggests the mineral to be recovered is river terrace gravel, whereas the HIA correctly identifies it as a storm beach deposit (sitting on top of other superficial deposits at the site).

We do not consider that the HIA contains sufficient information for us to be sure that the development can proceed without impacting the water environment. Specifically, because of the highly irregular shape of the site boundary, we do not consider the groundwater monitoring to be representative of conditions across the site as a whole.

In addition, the HIA is ambiguous about the need for an abstraction licence for both dewatering and mineral washing. In light of the above, the proposed development will

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be acceptable if the following planning condition is included requiring submission and subsequent agreement of further details as set out below.

Without this condition we would object to the proposal in line with paragraph 174 of the National Planning Policy Framework because it cannot be guaranteed that the development will not present unacceptable risks to groundwater resources.

Condition

The development hereby permitted may not commence until such time as a proposed scheme for groundwater monitoring has been submitted to, and approved in writing by, the local planning authority. The scheme shall include details to be agreed prior to the commencement of mineral extraction and details to be submitted during the operational lifetime of the site, as follows:

1. Prior to commencement of mineral extraction:
 - i) In addition to the boreholes identified in the HIA (referenced 3133/HIA – version D3, dated June 2023) at least four more boreholes at the extremities of the site shall be constructed for groundwater level (GWL) monitoring purposes. The location of the additional boreholes shall be agreed with the Local Planning Authority.
 - ii) Each borehole shall be constructed and if necessary modified to enable monitoring of groundwater levels to the base of the aquifer concerned, or to 1 metre below the base of the proposed excavation, whichever the least depth.
 - iii) Each borehole shall be constructed and if necessary modified to prevent the ingress of surface water, and so as to prevent the uncontrolled transfer of fluids between individual aquifer layers, or the surface.
 - iv) In addition to the plans provided in the HIA, a single drawing (at a size no smaller than A3 landscape format) showing the exact location of all boreholes drilled to-date and those proposed for GWL monitoring (i.e. the four already monitored and the additional four required in i) above).
2. During the operational lifetime of the site:
 - i) Groundwater levels in each borehole shall be measured and recorded monthly; along with the position, depth and water level (if any) of the lowest part(s) of the excavation; and also the quantity of water removed from the excavation void by pump or siphon (this should be incorporated into the conditions of any abstraction licence).
 - ii) All levels shall be related to Ordnance Datum, and the data kept on site throughout the development, to be available for third party inspection, by appointment, during normal site office hours.
 - iii) The monthly monitoring data so obtained shall be compiled into an annual monitoring report; and submitted by the developer to the Local Planning Authority on each anniversary of the commencement of extractive operations.
 - iv) The annual monitoring report shall briefly identify and explain any observed conditions encountered that were inconsistent with the expectations of the HIA or that are incompatible with the permitted method of working or proposed restoration scheme. Where necessary it will also highlight any anomalies and/or mitigation measures implemented to mitigate any unexpected significant environmental impacts.

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

Reason

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

It may be necessary to review the restoration proposals prior to final closure of the site to assess how the permanently modified site hydrology and hydrogeology will influence the level of the water table relative to the restoration land surface.

Typically, surface water level or storm run-off controls may be required or need final adjustment in the light of modified groundwater levels for open water or wetland restorations, and the need for land drains etc may need review in the case of dry restoration proposals where the water table is near surface.

Abstraction licence – advice to applicant

Any use of more than twenty cubic metres per day, for the purposes of dewatering and/or mineral washing, shall require an abstraction licence, which shall need to be in place before extractive operations commence. The Operator should therefore make the necessary application at the earliest possible opportunity and, because of delays in the nationally administered permitting process, we would suggest it should be assumed that any such application will take six to nine months to be determined.

In addition, records of all boreholes deeper than 15m should be provided to the British Geological Survey (BGS). We would advise that the simplest way to do this will be to create a PDF of Appendix 2 of the HIA (i.e. electronic pages 46-72) and submit it to the BGS via <http://transfer.bgs.ac.uk/ingestion> (if necessary discussing format with BGS first via ngdc@bgs.ac.uk).

Waste on site – advice to applicant

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 re-used on-site providing they are treated to a standard such that they 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 recommends 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 – advice to applicant

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.

Fisheries and Biodiversity

We have reviewed the following documentation provided in support of the planning application:

- PA23-9 Conceptual Restoration plan
- Environmental Statement (ES)
- ES - Appendix 4A Ecological Appraisal
- ES - Appendix 4B Ecological Impact Assessment (EIA)
- ES - Appendix 4C Biodiversity Net Gain (BNG) report

The proposed development will only be acceptable if the following planning conditions are included.

Condition

No development shall take place until a Construction Environmental Management Plan (CEMP) 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 plans and any subsequent variations shall be agreed in writing by the local planning authority.

The CEMP shall include the following elements:

- Details of the mitigation included within section 8 and section 9 of the EIA in relation to protected species and designated sites.
- Details of how the on-site ditches and ponds will be protected during the works from impacts such as pollution and dust.
- Details of how the retained habitats on site will be protected during the proposed works.
- The proposal includes plans to use an existing fishing lake as a silt lagoon, following the removal of any fish present. The CEMP should include plans of how the fish relocation will take place. This should include the method used to catch the fish i.e., netting, electro fishing or a combination of the two, confirmation that

the relocation will be undertaken by a competent contractor and information about the location the fish will be moved to i.e. will they be retained at the same site or moved to a different location. It should be noted that if the fish are to be moved to another location, the applicant will need to apply for permission and written consent from the regional water company i.e., Unities Utilities as indicated under Section 30 of the Salmon and Freshwater Fisheries Act 1975. The fish will also require a health check prior to moving locations.

- Details of biosecurity measures to prevent the spread of invasive species.

Condition

No development shall take place until Biodiversity Enhancement Management Plan (BEMP) 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 plans and any subsequent variations shall be agreed in writing by the local planning authority.

The BEMP shall include the following elements:

- Details of post-development habitat creation and enhancement in-line with the BNG report. This should include details of species mixes and planting type and how the creation/enhancement process.
- Details of scheduling of restoration and management
- Details of maintenance regimes. This should include how the habitats will be maintained for a 30-year period as is required under the Environment Act.
- Details of management responsibilities. This should cover maintenance responsibilities for a 30-year period as is required under the Environment Act.
- Details of treatment of site boundaries and/or buffers around water bodies

Reason

These conditions are required to ensure that the development is implemented in accordance with relevant wildlife legislation, Natural England guidance, the principles of the National Planning Policy Framework (NPPF), local planning policy and best practice.

Section 8.2.2 of the Ecological Impact Assessment states that '*A Construction Environmental Management Plan (CEMP) will be formulated for the operational period of development. A Biodiversity Enhancement Management Plan (BEMP) will be formulated for the post operation period of habitat restoration.*'

Within the Biodiversity Net Gain report on page 9, the report states that '*It is envisaged a detailed Biodiversity Enhancement and Management Plan (BEMP) will be conditioned which will provide detail on the planting types, scheduling of restoration and management.*'

This approach is supported by paragraphs 174 and 180 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 the environment.

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Flood Risk

The planning application is accompanied by an Environmental Statement and Technical Appendices Including Appendix 8: Flood Risk Assessment (FRA) for Bourbles Farm Quarry, prepared by Greenfield Environmental Ltd, referenced; 3133/FRA, Final Version F1 and dated June 2023.

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.

Environmental permit - advice to applicant

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.

Waste

Operations proposed as part of this development will be subject to control through the Environmental Permitting regime. It will be the responsibility of the applicant / operator to ensure they have all the necessary permits. Should planning approval be granted, it should not be assumed that a permit for the proposed activities will be forthcoming.

It is identified that the proposed restoration scheme requires the import of 220,000 cubic metres of inert waste which is proposed to be deposited into shallow groundwater. This will require either a Deposit for Recovery (DfR) or inert landfill permit. A permit application will need to be supported by a HIA and we have not reviewed the HIA submitted with this planning application in relation to the permitted activities as proposed.

It is possible a mining waste permit will be required and the risks in relation to the management of wash water should also be included in the HIA. The risk of emission of pollutants assessed should include dust, both from extraction and DfR/landfill

operations.

Guidance on Environmental Waste Permits can be found on the Gov.UK website at: <https://www.gov.uk/guidance/waste-environmental-permits>. Applicants can also apply for pre-permitting advice here: [Get advice before you apply for an environmental permit - GOV.UK \(www.gov.uk\)](#)

Yours sincerely

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