

v/v c.21 site setup & storage, I note that the odd second delivery entrance has now been removed from the plan, and the storage area placed originally at the top of the slope above the OWC on site (monsoon drain) has been re-located to the NW of the site, some +30m distant from the watercourse. This addresses acute pollution & trackout issues previously highlighted. Provided site setup is in accordance with 18-197 CIE MHA ZZ ZZ DR A 003 A08, 14/06/2019, Labelled as "Rev A", I've no outstanding concerns.

Re: c.18, I note some amendments to section 5.7 (Contaminated Land Procedures). These amendments are largely unhelpful, making statements about the ground contamination assessment & remediation undertaken to date which are factually incorrect, and fails to account for the degree of variability across the site (assumes that the location of all contamination-impacted material is known / has been empirically determined). References to the extent of placement of granular 'capping' are also incorrect, and reference to the prevention of cross contamination of soils (being ensured by the presence of the capping) are unhelpful at best, given;

- The extensive & detailed levels specification (requiring removal of capping, excavation of soil below, and re-placement),
- The need to excavate through the capping to achieve suitable depths for planting larger species required by the landscaping strategy.
- That the construction scheme has not been conceived to avoid excavations below capping layer for installation of services, foundations or rafts, and
- That the author's perceptions of the location & extent of contamination-impacted soils is essentially incorrect

There remains a risk of excavated sub-soils (from below granular capping) will be placed 'clean-side' of the cover system. Post construction, relevant averaging areas will be very small (e.g. single plot rear curtilage) – and in principle, placement of material clean-side of the cover system, with a 95'th percentile concentration >GAC could result in determination of the plot as contaminated land. Obviously this is what the national policy aims to avoid. This was always a risk at this site, and is always a risk with complex materials management plans and cover requirements. Essentially, this is a c.8 issue, and not a c.18 issue – the Council has accepted the developer's proposals for remedial works, and must assume that the measures will be implemented as proposed. Whilst I am sceptical (given the text of the CEMP) that site workers will be appropriately instructed (during site induction and at toolbox talks etc.), ultimately the planning service has done its job and the developer/site owner is bound by NPPF para 179 & Building Control Controlled Doc C in terms of liabilities. In other words, I have my concerns, but these will be picked up at verification (c.9 I believe), which should provide a safeguard to an enforcement scenario arising (albeit at risk of a difficult discharge process).

Referring to the text of my earlier response, specifically *"5.11.2 refers to response procedures which are to be produced at some future point and are not included in/with the draft CEMP. It is recognised that a CEMP is a living document, but these should ideally be included"*; new text is included in the CEMP rev. A, 3, 17/11/2020 at 5.11.2 making further reference to these procedures and to the communication / training of staff through site inductions, however the relevant procedures are not included in appendix. As a result the prior caution remains relevant (*"At a minimum, the planning service should be satisfied that from an enforcement perspective the reference to these procedures at 5.11.2 of the draft CEMP is sufficient to support enforcement actions where the actions of site personnel fall short of what the planning service would regard such procedures as implicitly and reasonably comprising. Where this is not the case, it is probably safer to require that the procedure be included in the approved version of the document"*). Again, no showstopper, and essentially a planning call.

5.8.1 has not been amended to include precautionary physical protections to the OWC, and essentially reliance is being placed upon clean working practices outlined to mitigate the risks to the Lavant. If there's a significant site run-off / river turbidity event, the EA will be the appropriate enforcing authority. If you've not sought to confirm that the Agency is happy with the CEMP, this might 'dot the i' from a procedural perspective. It may be expedient / sufficient to telephone for informal advice – main issues, i) no precautionary physical protections to OWC, ii) OWC communicates directly with Stat. Main River, and iii) TSS in site runoff may be impacted by a degree of contamination as soils required to be placed below clean cover will need to be excavated and handled within the site curtilage.

I think the take-home is that I'm not acutely concerned about immanent acute pollution occurring, but the CEMP falls short of best practice. I think it would be difficult to defend the Council regarding the absence of best practice protection from the CEMP as a significant environmental risk - presumably making proceeding without first securing discharge of c.18 a 'technical' offence which may not justify an formal enforcement response (subject to the Agency concurring with the above rationale).

I hope that this brief overview is helpful – if you'd like to discuss further I should be available on the phone for most of tomorrow, and on Weds AM / PM (I'm out 12:00-14:00).

Best Regards,

Jon

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Environmental Control Officer