

Kelly Joyce
Gravesham Borough Council
Sent by email.

Our ref: KT/2024/131671/02-L01
Your ref: 20240234

Date: 19 August 2024

Dear Kelly,

Erection of emissions management building consisting of a baghouse and stack.

Britannia Refined Metals Ltd, Lower Road, Northfleet, Gravesend, Kent, DA11 9BG

Thank you for consulting us on the above planning application on 24 July 2024.

We have reviewed the below documents and have the following comments.

- Flood Risk Assessment, by SLR (ref: 402.064683.00001, dated: July 2024)
- Phase One Geotechnical and Environmental Desk Study, by SLR (ref: 402.064683.00001, dated: August 2023)
- Ground Investigation Report, by SLR (ref: 402.064683.00001, dated: October 2023)

Environment Agency position

We wish to **remove our previous objection** dated June 2024. Following the review of additional information, we have **no objection** to the proposed development, subject to the following conditions being included on any permission granted.

Without these conditions we would object in line with paragraph 180 of the National Planning Policy Framework (NPPF) and policy CS19 of the Gravesham Local Plan.

Condition 1: Contamination investigation

No development approved by this planning permission shall commence until a strategy to deal with the potential risks associated with any contamination of the site 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; and
 - 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 written consent of the local planning authority. The scheme shall be implemented as approved.

Reason:

To ensure that the development does not contribute to, or 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 and policy CS19 of the Gravesham Local Plan.

Condition 2: Contamination verification

Prior to any part of the permitted development being occupied 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 human health or 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 and policy CS19 of the Gravesham Local Plan.

Condition 3: Unsuspected contamination

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 a remediation strategy detailing how this contamination will be dealt with has been submitted to and approved in writing by the Local Planning Authority. The remediation strategy shall be implemented as approved.

Reason:

To ensure that the development does not contribute to, or is not put at unacceptable

risk from, or adversely affected by, unacceptable levels of water pollution from previously unidentified contamination sources at the development site in line with paragraph 180 of the National Planning Policy Framework and policy CS19 of the Gravesham Local Plan.

Condition 4: Surface water drainage

No drainage systems for the infiltration of surface water drain age into the ground is 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 controlled waters. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 180 of the National Planning Policy Framework and policy CS19 of the Gravesham Local Plan.

Condition 5: Piling

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 by a piling risk assessment that there is no resultant unacceptable risk to groundwater. The development shall be carried out in accordance with the approved details.

Reason:

To ensure that the development does not contribute to, or is not put at unacceptable risk from, or adversely affected by, unacceptable levels of water pollution caused by mobilised contaminants in line with paragraph 180 of the National Planning Policy Framework and policy CS19 of the Gravesham Local Plan.

Informative

Surface water drainage

Only clean uncontaminated water should drain to the surface water system. Roof drainage shall drain directly to the surface water system (entering after the pollution prevention measures). Appropriate pollution control methods (such as trapped gullies and interceptors) should be used for drainage from access roads and car parking areas to prevent hydrocarbons from entering the surface water system. There should be no discharge into land impacted by contamination or land previously identified as being contaminated. There should be no discharge to made ground. There must be no direct discharge to groundwater, a controlled water.

Piling

Piling can result in risks to groundwater quality by mobilising contamination when boring through different bedrock layers and creating preferential pathways. Thus it should be demonstrated that any proposed piling will not result in contamination of

groundwater. If piling is proposed, a Piling Risk Assessment must be submitted, written in accordance with EA guidance document "Piling and Penetrative Ground Improvement Methods on Land Affected by Contamination: Guidance on Pollution Prevention. National Groundwater & Contaminated Land Centre report NC/99/73".

Waste

Contaminated soil that is, or must be disposed of, is waste. Therefore, its handling, transport, treatment and disposal is 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 2010
- 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 waste material to be produced at or taken off site is hazardous waste and is 500kg or greater in any 12 month period the developer will need to register with us as a hazardous waste producer.

Advice to LPA

Contaminated land

We consider the provided Phase One Geotechnical and Environmental Desk Study (Ref: 402.064683.00001, dated 11th August 2023) to suitably address part 1 of condition 1.

Flood risk assessment review

We note that within the flood risk assessment of the use of this building is 20 years. It is normal for commercial buildings to be assessed on a 75 year life. Many buildings although designed with a short life span do routinely get extended, and their use continued. It is prudent to assess the building on the 75 year life unless you are certain it's use will cease after 20 years or it will be demolished after the 20 years.

It should be noted that in line with the Thames Estuary 2100 plan the flood defences will have to be raised to a level of 7.0m AOD by 2040 and 8.0m AOD by 2070 in order to continue to provide the level of protection this site currently benefits from. Consideration should be given to this in the context of the wider site and to ensure there is no impedance to achieve this or repairs and maintenance by restriction of space or options as a result of any development proposal.

Sequential test

In accordance with the National Planning Policy Framework (paragraph 162), development in flood risk areas should not be permitted if there are reasonably available alternative sites, appropriate for the proposed development, in areas with a lower risk of flooding. The sequential test establishes if this is the case.

Development is in a flood risk area if it is in Flood Zone 2 or 3, or it is within Flood Zone 1 and your strategic flood risk assessment shows it to be at future flood risk or at risk from other sources of flooding such as surface water or groundwater.

The only developments exempt from the sequential test in flood risk areas are:

- Householder developments such as residential extensions, conservatories or loft conversions
- Small non-residential extensions with a footprint of less than 250sqm
- Changes of use (except changes of use to a caravan, camping or chalet site, or to a mobile home or park home site)
- Applications for development on sites allocated in the development plan through the sequential test, which are consistent with the use for which the site was allocated.

Avoiding flood risk through the sequential test is the most effective way of addressing flood risk because it places the least reliance on measures such as flood defences, flood warnings and property level resilience.

It is for you, as the local planning authority, to decide whether the sequential test has been satisfied, but the applicant should demonstrate to you, with evidence, what area of search has been used. Further guidance on the area of search can be found in the planning practice guidance [here](#).

Further guidance on how to apply the sequential test to site specific applications can be found in the planning practice guidance [here](#).

Flood resistance and resilience

We strongly recommend the use of flood resistance and resilience measures. Physical barriers, raised electrical fittings and special construction materials are just some of the ways you can help reduce flood damage.

To find out which measures will be effective for this development, please contact your building control department. If you'd like to find out more about reducing flood damage, visit the Flood Risk and Coastal Change pages of the planning practice guidance. Further guidance on flood resistance and resilience measures can also be found in:

Government guidance on flood resilient construction

<https://www.gov.uk/government/publications/flood-resilient-construction-of-new-buildings>

CIRIA Code of Practice for property flood resilience

https://www.ciria.org/Research/Projects_underway2/Code_of_Practice_and_guidance_for_property_flood_resilience.aspx

British Standard 85500 – Flood resistant and resilient construction

<https://shop.bsigroup.com/ProductDetail/?pid=000000000030299686>

Flood risk issues not within our direct remit

The following issues are not within our direct remit or expertise, but nevertheless may be important considerations for managing flood risk for this development. Prior to deciding this application we recommend that consideration is given to the issues below. Where necessary, the advice of relevant experts should be sought.

- Adequacy of rescue or evacuation arrangements
- Details and adequacy of an emergency plan
- Provision of and adequacy of a temporary refuge
- Details and adequacy of flood proofing and other building level resistance and resilience measures
- Details and calculations relating to the structural stability of buildings during a flood
- Whether insurance can be gained or not
- Provision of an adequate means of surface water disposal such that flood risk on and off-site isn't increased

Advice to applicant

Competent persons

The proposed development will be acceptable if a planning condition is included requiring the submission of a remediation strategy, carried out by a competent person in line with paragraph 178 of the NPPF. The Planning Practice Guidance defines a "Competent Person (to prepare site investigation information): A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation."(<http://planningguidance.planningportal.gov.uk/blog/policy/achieving-sustainable-development/annex-2-glossary/>)"

Note to applicant

Planning advice service

Should you wish us to review any technical documents or want further advice to meet the requirements of the conditions recommended, we may do this as part of our charged for planning advice service.

Further engagement will provide you with certainty of our position as to what our response to your planning application will be. It should also result in a better quality and more environmentally sensitive development.

As part of our charged for service we will provide a dedicated project manager to act as a single point of contact to help resolve any problems. We currently charge £100 per hour, plus VAT. We will provide you with an estimated cost for any further discussions or review of documents. The standard terms of our charged for service are available [here](#).

If you would like more information on our planning advice service, including a cost estimate, please contact us at kslplanning@environment-agency.gov.uk.

Note to LPA

Condition Wording

If you wish to amend the wording of our requested conditions or if you wish to merge them with other Local Planning Authority conditions, please contact us to discuss the revised wording.

Decision notice

We require decision notice details for this planning application in order to report on our effectiveness in influencing the planning process. Please email kslplanning@environment-agency.gov.uk with any decision notice details.

Should you have any queries regarding this response, please contact me.

Yours sincerely,

Connor Bowman
Sustainable Places Planning Specialist

E-mail kslplanning@environment-agency.gov.uk