

Our ref: OXF11366

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David Pedlow
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Dear David,

Redcar Energy Centre at land at Redcar Bulk Terminal, Redcar. LPA Ref. R/2020/0411/FFM

Further to our recent conversation, we write to confirm the position of the applicant in respect of the letter dated 23 September 2020 submitted by Lichfields on behalf of their client Anglo American Woodsmith Ltd ('Anglo American') that provides comment on the above application ('the AA letter').

First of all, we note from the AA letter that Anglo American welcomes the principle of the REC proposal and there are no objections raised to the application in that respect. The AA letter sets out that it is important that REC and Anglo American work together to ensure that the REC proposal does not prejudice the currently consented and part-constructed Anglo American Woodsmith Project. Similarly, the applicant welcomes the principle of the Anglo American Woodsmith Project, and as set out by Lichfields there have been positive discussions between the two developers.

For ease of reference we set out our position below adopting the sub-headings used in the AA letter.

Traffic and Transport

The AA letter sets out a quote which it says is taken from Chapter 10 of the REC Environmental Statement (Traffic and Transport) as follows:

'there are no sites which have planning permission that would generate a significant level of traffic onto the local network that need to be considered as a committed development and form part of the future year baseline scenario'.

The AA letter goes on to request that all permissions relating to the Anglo American Woodsmith Project are fully assessed as part of a future transport baseline scenario.

In this respect, we note that Chapter 10 sets out that a detailed assessment was undertaken of all planning applications and allocated sites in the surrounding area and that a full list along with comments for each site identified was set out in the Transport Assessment (Appendix 10.1 of the Environmental Statement).

Table 5.3 of the Transport Assessment sets out a list of four committed developments that have been identified and included as part of a future transport baseline scenario. One of these is the York Potash Port and Materials Handling Facilities DCO (TR03002), which is the element of the Anglo American Woodsmith Project that is predicted to generate a significant amount of traffic onto the REC transport study area.

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As such, we can confirm that the Anglo American Woodsmith Project has been identified as a committed development and its predicted traffic flows have been included as part of the REC future transport baseline scenario.

The AA letter goes on to reference the position Highways England adopted for the York Potash Harbour Facilities DCO and that this supports Anglo American's view that a cumulative assessment on traffic and transport impacts is required within the submitted Environmental Impact Assessment. As above, it is confirmed that the Anglo American Woodsmith Project has been identified as a committed development, forms part of the transport baseline and is thus included within all REC assessments.

The REC assessments contained within the Environmental Statement and the Transport Assessment conclude that the cumulative impact on the local highway network would be negligible and would not result in any significant environmental effects.

The AA letter recognises REC's potential use of the existing rail and wharf facilities and it notes that these are not assessed within Chapter 10 of the Environmental Statement.

ES Chapter 10 provides a worst-case assessment whereby it considers the event in which all REC inputs and outputs are transported by road. Inputs and outputs could be transported via rail or via the wharf, where available, where feasible and where it is viable. However, to ensure a robust analysis of the proposed REC, all transportation has been assumed via road and, as confirmed above, this includes the Anglo American Woodsmith Project, hence a worst-case assessment is undertaken in that regard.

The AA letter recognises that the applicant and Anglo American have been in discussions. In those discussions, the applicant has confirmed to Anglo American that REC would not take any of their railpaths or berthings nor impede any of their much larger project.

It is understood that AA would be likely to use the port facilities at Redcar Bulk Terminal but that there is likely to be sufficient residual availability for other operators, potentially including the REC project. However, whichever facilities AA use, the commercial reality is that their demand for such facilities would be far greater than that of the REC project, and as such, the REC project would have to utilise any residual availability at RBT or elsewhere in STDC area. Should it transpire that such facilities were not available at all, or they were not commercially viable or feasible, the REC project would utilise road transport which is the basis upon which it is predicated and assessed. Moreover, as the proposed REC project only proposes to utilise existing facilities should they be available, feasible and viable to use, and as it does not propose to develop new facilities, or improve or extend existing facilities there is no basis to include those aspects within the cumulative impact assessment.

In this context, the proposed REC would not prejudice or impede the Woodsmith project coming forward. Given this, it is difficult to conceive of a planning condition which would be necessary to impose, or what it might reasonably require or limit.

In summary, the REC application is predicated and assessed on the basis that all transportation would be via road and only via rail or seaport should such facilities be available, feasible and viable. This is in recognition of the commercial reality whereby the proposed REC project could not conceivably secure such access to such facilities at the expense of AA's Woodsmith project. Such a grant of planning permission will ensure that RECs inputs and outputs could all be transported via road in the event that there were availability issues with railpaths and / or berthings and to ensure REC would not conflict or impede Anglo American's use of such facilities.

Geology, Hydrogeology and Contamination

The AA letter references the Phase 1 Preliminary (Environmental) Risk Assessment and notes that a Phase 2 Site Investigation would be undertaken prior to construction, stating:

'A Phase 2 Site Investigation survey is also proposed to be undertaken prior to construction. This would include an assessment on risks to human health receptors, controlled waters receptors and infrastructure. Given, however, the potential impacts the findings of the Phase II survey could have on the construction

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process - including the amount of waste and construction traffic associated with the development – we request that this is undertaken upfront and prior to the determination of the application’.

Chapter 9 sets out mitigation measures adopted as part of the project and confirms a Code of Construction Practice will be prepared that will include measures such that all health and safety legislation will be fulfilled and to minimise and mitigate all associated impacts.

Depending upon the recommendations of the Phase 2 Site Investigation, as a worst-case option, as noted in the letter, there may be a requirement for contaminated land to be removed from site as part of site remediation, which may affect construction HGV movements.

However, this should be seen in the context that where contamination is encountered on site, it would be remediated in accordance with a strategy agreed with the LPA in consultation with the Environment Agency whereby removal and disposal of the material offsite would be avoided wherever practicable. And the strategy agreed would need to follow the waste hierarchy with removal and offsite disposal as the least favoured option.

Furthermore, should there be contaminated material on the site it will almost certainly be possible to treat the material on site and be more cost effective to do so than to transfer for landfill disposal elsewhere, especially in the context that the material would be waste and subject to landfill tax and other tax regimes. There would therefore be every incentive to the developer to avoid the removal of contaminated material from the site.

Moreover, given the above context, the removal of material is only likely to be required where there is an excess of material on site comparable to the development platform. In the case of the application site that would not be relevant given that it is relatively flat as existing and the cut and fill required to reprofile to development platform is more or less in equilibrium, such that any excess material could be utilised in the peripheral areas of the site. The large scale removal of material from the site owing to contamination would, therefore, be most unusual for a development of this nature and scale, and is unlikely to be required as on-site/in-situ remediation methodologies are likely to be more cost effective and sustainable.

In addition, for a project of this scale and nature and location it would be most unusual to undertake the Phase II Site Investigation pre-consent as that would lead to unreasonable cost and delays where the need for and/ or number of vehicle movements associated with the export of contaminated material from the site, as is the case here, is not a determinative consideration as to the acceptability of the application. There is therefore no justification for the ‘up front’ approach suggested for the reason advanced by AA.

In order to demonstrate this, we have nonetheless, considered a theoretical reasonable case scenario in which contaminated materials need to be exported along with replacement infill material and the effects of this on construction HGV movements taking into consideration the context of the assessments as already submitted.

Export of Contaminated Material

Although the volume of material to be exported and infilled affects the overall number of HGV movements over the total duration of the remediation process, the number of daily HGV movements are derived from the intensity of the works and the rate of excavation / infill.

Extraction of the contaminated material, in the unlikely event that it were to be required, would be via a hydraulic excavator. These have variable production rates based upon, for example, the size of its bucket and the type of material being excavated. If a large bucket and a material conducive to fast extraction is assumed (i.e. maximum production), an extraction rate in the order of approximately 25m³ per hour can be expected. Given a tipper (HGV) payload of 15m³, an eight hour working day and assuming a spoil decompaction rate of 25%, this equates to 17 HGV loads (34 HGV movements) per hydraulic excavator per day.

Section 10.6 of the ES Chapter 10 sets out that the proposed REC would generate 247 two-way HGV movements per day when it is operational. Based upon the above assumptions, it would require eight hydraulic excavators to be in use simultaneously for daily HGV movements as a result of the extraction process to exceed those that have been assessed for the operation of REC.

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That would be a large number of hydraulic excavators and is substantially more than that which are typically operated simultaneously on construction sites, so as to minimise safety risks and thus ensure adherence to the Construction, Design and Management Regulations (2015).

Based upon this, the HGV movements generated by the excavation of contaminated material, if required, would not exceed that for when the REC is operational.

To set this into context, further consideration has been given to the number of any such HGV movements, relative to the potential volume of material that may need to be exported. In this respect, if a 1m depth of excavation under every proposed building on site was assumed plus a 2m depth of excavation for the attenuation pond plus a 12m depth of excavation for the bunker, then a total volume of 60,000m³ would require exporting. In this respect, we note that any contaminated material would most likely be remediated on site and reused as part of forming the development platform and peripheral areas.

As above, given a tipper (HGV) payload of 15m³ and assuming a spoil decompaction rate of 25%, this equates to 5,000 total HGV exports (10,000 total HGV movements) if contaminated material needed to be excavated and disposed of. If 100 HGV movements per day was assumed, which is less than the operational movements, a duration of 100 working days would be required. If 200 HGV movements per day was assumed, a duration of 50 working days would be required. Such durations are not uncommon for groundworks and would not unduly affect the construction process.

Import of Infill Material

In terms of infill, material would be imported to the site using tippers (HGVs) with payloads of 15m³ / 20 tonnes. As above, Section 10.6 of the Environmental Statement sets out that the proposed REC would generate 247 two-way HGV movements per day when it is operational. If this number of HGV movements were to be generated to import infill material, based upon 278 working days per annum, this would equate to an import rate of 686,680 tonnes per annum.

By way of context, in comparison to other planning applications around the country a typical import rate of infill material for land restoration projects is in the order of 100,000 to 250,000 tonnes per annum.

The construction works required to restore land with infill material effectively limits the rate that material can be imported. As above, other examples from around the country suggests this is in the order of 100,000 to 250,000 tonnes per annum.

As such, if an import rate for REC was assumed (if indeed restoration is required) that generated the same number of HGVs as when it was operational, this would equate to an import rate of 686,680 tonnes per annum. This is nearly a three-fold increase of the upper range of other examples from around the country and is far in excess of the level of material likely to be required for infill given the relatively flat nature of the existing site, the likely volume of any contaminated material on site taking into account its size, and the likelihood that any contaminated material would almost certainly be remediated on site for the reasons set out above.

Accordingly, it is thus considered that the HGV movements generated by the importing of infill material, if required, would not exceed that for when the REC is operational.

Overall

In summary, therefore, based upon the above analysis of a reasonable albeit unlikely scenario, if any contaminated material requires excavation and disposal with replacement infill material imported, it is very unlikely that the HGV movements generated would exceed that for when the REC is operational. Thus, the considerations set out within Chapter 10 of the Environmental Statement remain robust whereby the assessments undertaken for the operational phase cover those during the construction phase.

Therefore, whilst the findings of the Phase II Site Investigation may, as Lichfields assert, influence the construction process:

- It is unlikely that the need for the export of a large volume of material would be required; and

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- If it were, it would not exceed the daily HGV movements identified for the operational phase of the development which have been demonstrated to be negligible and therefore acceptable.

In light of this, it would plainly be unreasonable to require a Phase II Site Investigation to be submitted prior to planning permission being granted with all the delay and cost that would entail. And we would therefore suggest that a pre-commencement condition remains the only appropriate and proportionate solution in the usual way.

I trust this analysis has been helpful and persuasive and look forward your confirmation as such in due course. If in the meantime you have any questions please do not hesitate to give me a call.

Yours sincerely,
for RPS Consulting Services Ltd

A handwritten signature in black ink, appearing to read 'A. Stevenson', written in a cursive style.

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