

Mr Darren Edmends  
South Tees Development Corporation  
Cavendish House  
Teesdale Business Park  
Stockton-on-Tees  
Tees Valley  
TS17 6QY

Our ref: DoWCoP/2020  
Your ref: DoW/CoP2020

Date: 15 December 2020

Dear Mr Edmends

**South Tees Development Corporation: Teesworks  
Proposal to re-use iron & steel slag rich made ground under CL: AIRE Definition of  
Waste: Development Industry Code of Practice (DoW CoP) on the Site of Origin at the  
Metals Recovery Area, South Bank.**

Thank you for your recent enquiry regarding the above proposed development.

Having reviewed your proposal and the supporting documents we are providing you with the following feedback. It is the Environment Agency's position that the steel and iron slag that makes up the made ground located outside of designated former and current landfills is not waste and can be re-used under CL: AIRE Definition of Waste: Development Industry Code of Practice (DoW CoP).

Your proposal has been discussed in detail between the EA National Waste Lawyer and colleagues within the local NorthEast Waste and National Landfill & Deposit for Recovery teams. Our view is that the made ground mainly consisting of steel and iron slag should not be considered waste as defined in the Waste Framework Directive, Article 3(1) as long as you (the developer/operator) can demonstrate that the steel and iron slag was used for an intended purpose, i.e. to heighten and extend the marshy low-lying ground for the purpose to use and develop that land. Based on the information submitted it appears that the steel and iron slag was not discarded but used for an intended primary purpose i.e. to develop and use this land.

It should be noted that legislation is generally not retrospective so anything deposited pre-legislation would not be retrospectively assessed as waste. It is for you (the developer/operator) to demonstrate that the steel and iron slag was deposited pre-Control of Pollution Act (1974). This is in line with our approach not to bring areas of land no longer regulated back into regulation unless not doing so would undermine our existing legislative regime. There is one important caveat to this, where material was deliberately discarded into or onto land designated as 'landfill'. The act of discarding the material (intentional or

otherwise) means that the material does fall under the waste definition previously quoted. Any material found within/on land designated as landfill (current or historic/former and regardless of a permit or not) contains waste. If this waste is excavated it is subject to current legislation and Regulatory Permitting requirements.

In summary, this re-development area incorporates areas of land that have clearly been designated 'landfill' (both under current permit and historical prior to waste legislation) if this waste is excavated at any point, current waste regulations will apply for the treatment and/or disposal, recovery and re-deposit of the waste. The area of made-ground made up of the steel and iron slag located outside of the designated former and current landfills can be treated as non-waste under CL: AIRE Definition of Waste: Development Industry Code of Practice (DoW CoP).

**CL: AIRE Definition of Waste: Development Industry Code of Practice (DoW CoP)**

The DoW CoP sets out good practice and provides a framework for determining whether or not excavated material arising from site during remediation and/or land development works are considered to be waste or not. The CoP applies to excavated materials that are:

- reused on the site of production;
- transferred between sites and reused directly without treatment\*; or
- transferred between sites and reused following treatment, as part of a Cluster project\*\*.

\*Only clean naturally occurring soil and mineral based materials may be transported and re-used directly under the CoP. Materials requiring treatment (e.g. contaminated soils requiring remediation) can only be reused following treatment/recovery within a cluster project.

\*\*A cluster project is where two or more sites use a shared treatment facility (a hub site) to help then recover and re-use waste soils.

There are four Factors to be considered when using excavated materials on sites undergoing development under CL: AIRE Definition of Waste: Development Industry Code of Practice (DoW CoP).

- Factor 1: Protection of Human Health and Protection of the Environment
- Factor 2: Suitability for use, without further treatment
- Factor 3: Certainty of Use
- Factor 4: Quantity of Material

The production of a Materials Management Plan (MMP) will help ensure that all factors are considered and a correct determination is made in relation to the nature of the materials.

Yours faithfully



Julie Dingwall

Waste Regulatory Technical Specialist

julie.dingwall@environment-agency.gov.uk

Environment Agency  
Tyneside House  
Skinnerburn Road  
Newcastle Business Park  
Newcastle-upon-Tyne  
NE4 7AR

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