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Development Management  
Redcar & Cleveland House  
Kirkleatham Street  
Redcar and Cleveland  
TS10 1RT

**Our ref:** NA/2021/115325/01-L01  
**Your ref:** R/2020/0819/ESM  
**Date:** 16 February 2021

Dear David,

**OUTLINE PLANNING APPLICATION FOR DEVELOPMENT OF UP TO 139,353 SQM (GROSS) OF GENERAL INDUSTRY (USE CLASS B2) AND STORAGE OR DISTRIBUTION FACILITIES (USE CLASS B8) WITH OFFICE ACCOMMODATION (USE CLASS E), HGV AND CAR PARKING, WORKS TO WATERCOURSE INCLUDING REALIGNMENT AND ASSOCIATED INFRASTRUCTURE WORKS (ALL MATTERS RESERVED). LAND BOUNDED BY TEES DOCK ROAD TO EAST BOLCKOW ROAD INDUSTRIAL ESTATE TO SOUTH EAST ESTON ROAD AND VACANT LAND TO WEST DARLINGTON & SALTBURN RAILWAY LINE TO NORTH WEST.**

Thank you for consulting us on the above planning application which we received 22 January 2021.

**Environment Agency position**

We have reviewed the submitted planning proposal and have **no objection** to subject to **CONDITIONS**.

The EIA proposal has not included a Water Framework Directive (WFD) assessment or a site specific drainage strategy. Once further details are known, we will require WFD assessments to be submitted. The Water Framework Directive 2000/60/EC covers all waters on land this is defined as "all standing or flowing water on the surface of the land".

As part of a WFD assessment the applicant will need to demonstrate:

- Whether the proposed development will lead to the deterioration of any WFD a waterbody.
- Whether the proposed development will compromise the achievement of Good Status or Potential in any WFD waterbody.
- Whether the proposed development will contribute towards a cumulative deterioration of WD status or prevent cumulative enhancement of WFD status in any waterbody.
- Whether the proposed development will support the delivery of measures identified in the Northumbria River Basin Management Plan (RBMP) that are required to achieve waterbody objectives.



**Condition: High Level Water Framework Directive Assessment**

Prior to commencement of development, or at such a time agreed in the phasing plan, a high level Water Framework Directive (WFD) assessment is to be submitted to, and approved in writing by, the local planning authority. This assessment shall include the entire site and consider the impacts of the full development proposal. The scheme shall be implemented in accordance with the approved details, unless otherwise agreed in writing.

**Reason:** To ensure that the development would not lead to deterioration or prevent the attainment of Good Ecological Status of any waterbody under the Water Framework Directive (WFD) objectives.

**Condition: Detailed Water Framework Directive assessment following phasing plan**

Prior to the approval of any phase of development that includes watercourses, the approved WFD assessment shall be updated. This shall be submitted to and approved by the Local Planning Authority prior to the relevant phase of development in accordance with the approved phasing plan. The scheme shall be implemented in accordance with the approved details and any mitigation measures recommended as part of the assessment will be adhered to throughout the lifetime of the development, unless otherwise agreed in writing.

**Reason:** To ensure that the development would not lead to deterioration or prevent the attainment of Good Ecological Status of any waterbody under the Water Framework Directive (WFD) objectives.

**Condition: Construction Environment Management Plan (CEMP)**

Prior to commencement of development, or in accordance with an agreed phasing plan, a Construction Environment Management Plan for the development shall be submitted to and approved, in writing, by the local planning authority. The plan shall include detail to ensure mitigation for contaminated or poor quality surface water is appropriate. The development shall thereafter take place in accordance with the approved details.

**Reason:** To ensure the environment effects of construction are appropriately managed.

We wish to be consulted on the results of any survey submitted in connection with this application, on any design changes, additional mitigation, compensation or enhancement measures that might subsequently be proposed.

**Conditions – Advice to LPA**

As you are aware, the discharge and enforcement of planning conditions rests with your authority. You must therefore be satisfied that the proposed conditions meet the requirements of the 6 tests in paragraph 55 of the National Planning Policy Framework. Further guidance on the 6 tests is provided in the planning practice guidance (<https://www.gov.uk/guidance/use-of-planning-conditions>).

Please notify us immediately if you are unable to apply our suggested conditions to allow further consideration and advice.

Beyond this, we would like to add the following informative comments:

Tyneside House, Skinnerburn Road, Newcastle Business Park, Newcastle upon Tyne, NE4 7AR.  
Customer services line: 03708 506 506  
Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)  
[www.environment-agency.gov.uk](http://www.environment-agency.gov.uk)



### **Culverts and opportunities for net gain – Advice to applicant**

The culverted watercourses are part of the water body GB510302509900, 'Tees'. The current status of the Tees estuary (waterbody reference GB510302509900) is 'moderate' ecological potential.

The objective for this waterbody is to achieve 'good' ecological potential. Individual element classifications and objectives are provided below. These environmental objectives are legally binding. All public bodies must have regard to these objectives when making decisions that could affect the quality of the water environment. The River Tees is important wildlife corridor and should remain as such and be enhanced where possible.

To not de-culvert the watercourses would be a missed opportunity for WFD enhancement and biodiversity net gain and could have a detrimental effect for the sustainability of the site, increasing maintenance costs for future land owners.

Detrimental effects of culverting watercourses can include:

- increased likelihood of flooding due to their limited capacity and propensity for blockage, both of which can result in obstructions to flow, and loss of floodwater storage;
- exacerbating the nature of flooding by increasing flow velocities and speed of onset;
- loss of and adverse effects on morphology, fisheries and wildlife habitat including substrate;
- if present, adverse effects on protected species;
- the creation of barriers to fish passage through increased water velocities, behavioural deterrent, shallow depths, darkness, oxygen depletion and eroded culvert entrances;
- increased geomorphological risk including changes to channel stability, river bank and bed erosion and increased deposition around the culverted sections;
- greater difficulties in providing for drainage connections;
- increased liabilities and costs due to the need to maintain, repair and replace culverts or to manage upstream and downstream risks;
- increased health and safety hazards, notably for workers clearing blockages and for children in urban areas;
- locally reduced groundwater recharge;
- increased difficulty in detecting the origins of pollution and in monitoring water quality;
- reduced resilience for communities and wildlife to the effects of extreme weather events, climate change and acute pollution.

In addition to avoiding the detrimental effects of new culverting listed above, the restoration of river corridors by removing or opening sections of existing culverting and restoring natural river beds and banks can have wider benefits, including:

- providing habitat for wildlife and improving its connectivity;
- providing additional flood storage capacity and slowing flows;
- ameliorating the urban heat island effect;
- providing areas for recreational use;

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- improving amenity, health and educational opportunities;
- increasing property prices and their desirability;
- reducing maintenance costs and improving safety.

We are unlikely to support planning applications for proposals to build over existing culverts because of health and safety considerations, increased maintenance costs and complexities, and because future options to restore the watercourse may be precluded.

### **Biodiversity – Advice to LPA/applicant**

We understand that the proposed works are currently at outline stage and a detailed design for the final development is not available. We await the production of the Environment & Biodiversity Strategy to demonstrate the mitigation and compensation for the overall development on the Teesworks sites, however we understand that any compensation measures agreed cannot yet be secured without the detail of this. In acknowledgment of this application being in outline, we would seek the applicant follows the mitigation hierarchy to firstly secure on-site mitigation, then compensation through the Environment & Biodiversity Strategy. On site mitigation must be the first port of call and given the site currently has a number of culverts below, we therefore encourage daylighting of these as part of any onsite mitigation and biodiversity net gain.

It is our understanding that at the current outline stage, the watercourses are not due to be impacted by the works unless an assessment and method statement is produced and supplied to the LPA for review. We therefore seek to obtain a condition so that those works may not proceed unless the EA is satisfied that the biodiversity has been adequately assessed and the correct mitigation and compensation value identified. Furthermore, any proposed plans must also comply with Water Framework Directive and an appropriate assessment carried out.

### **Biosecurity – Advice to applicant**

Strict biosecurity measures should be implemented to avoid the importing of non-native invasive species. Equipment, plant and PPE brought to site should be clean and free of material and vegetation. To ensure measures are implemented, it is recommended biosecurity toolbox talks are given to all site staff and rigorous inspections are undertaken of all equipment delivered to site, following the Check Clean and Dry campaign. Further information on biosecurity can be found at the following link <https://secure.fera.defra.gov.uk/nonnativespecies/checkcleandry/index.cfm>

### **Buffer Zones from Watercourses – Advice to LPA/applicant**

Development that encroaches on watercourses can have a potentially severe impact on their ecological value. Encroachment from development activities has potential to cause habitat loss, disturbance and nutrient enrichment. The setback development area needs to maintain this corridor around any watercourses on site and should be maintained and enhanced as part of the development work.

### **Discharge of treated water and outfall construction – Advice to LPA/applicant**

Any outfall structure / discharge that is required to be constructed may require a flood risk activity permit under the Environmental Permitting (England and Wales) Regulations 2016. As part of this application the Environment Agency will assess the application in relation to Fisheries, Biodiversity and Geomorphology. The application should also take into account impacts to protected and notable species and habitats along these



watercourses, with survey information informing these impacts. The design of any outfall should be sympathetic to the water environment and low impact design options that mimics greenfield runoff should be considered and not drain onto or impact Habitats of Principal Importance (such as mudflats or saltmarsh).

#### **Fish passage – Advice to applicant**

Fish passage should be maintained at all times to ensure the works do not present a barrier to fish movement. Failure to maintain fish passage could result in committing an offense under SAFFA and the Eel Regulations 2009 (Eel Regs).

#### **Dewatering – Advice to applicant**

The creation of a dry working area could have a potential impact on fish. A fish rescue should be undertaken prior to any in-channel works and fish captured relocated a safe distance away. This must apply to all in water works. The pump(s) used for dewatering will need to be appropriately screened to prevent ingress of fish. Screening is a requirement of both the Salmon and Freshwater Fisheries Act 1975 (SAFFA) and Eels (England and Wales) Regulations 2009. Any remaining fish found in dewatered areas should be rescued with hand nets and relocated a safe distance away. Fish Rescues must be carried out to best practice and with appropriate licence e.g. FR2 - Application for authorisation to use fishing instruments other than rod and line.

#### **Concreting – Advice to applicant**

No concrete, cementitious material or leachate from the construction activities must be allowed to enter the watercourse. The lime in substances containing cement is highly toxic to fish, salmonids in particular, and dissolves easily in water. Dry working when using concrete, allowing concrete to dry before it is exposed to water and the use of quick drying cement, should reduce any associated risk. It is an offence under Salmon and Freshwater Fisheries Act 1975 (SAFFA) to knowingly allow any solid or liquid matter injurious to fish, their spawning grounds, spawn or food, to enter the watercourse.

#### **Decision Notice**

In accordance with the planning practice guidance (determining a planning application, paragraph 019), please notify us by email within two weeks of a decision being made or application withdrawn. Please provide us with a URL of the decision notice, or an electronic copy of the decision notice or outcome.

Should you require any additional information or clarity, please don't hesitate to contact me.

Yours sincerely,

**Ms Caitlin Newby**  
**Planning Adviser**

Direct dial 02077140412

Direct e-mail [caitlin.newby@environment-agency.gov.uk](mailto:caitlin.newby@environment-agency.gov.uk)

