

Ms Jane Colley
High Peak Borough Council
Development Control
Municipal Buildings Market Place
Glossop
Derbyshire
SK13 8AF

Our ref: LT/2023/127840/04-L01
Your ref: HPK/2023/0192
Date: 26 September 2024

Dear Ms Colley

CONSTRUCTION OF 116 DWELLINGS LAND AT HOGHAW, FAIRFIELD, BUXTON, DERBYSHIRE,

Thank you for consulting the Environment Agency on the above application.

Environment Agency Position: Flood Risk

The proposed development is located wholly within Flood Zone 1, therefore we do not object to the proposal. The development proposes to include a surface water attenuation pond over the Nun Brook culvert, this is an ordinary watercourse culvert and is under the remit of the LLFA.

We would provide the following advice the LLFA:

- Consideration for a condition assessment of the Nun Brook Culvert
- Proposed building over a culverted watercourse

An assessment of the condition of the Nun Brook culvert would be necessary for confidence that it is structurally able to sustain the proposed construction and machinery activities.

The Environment Agency will normally object to 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. We will, where we deem appropriate, take possible cumulative impacts into account when making decisions.

We are opposed to the culverting of any watercourse because of the adverse ecological, flood risk, geomorphological, human safety and aesthetic impacts. Watercourses are important linear features of the landscape and should be maintained as continuous corridors to maximise their benefits to society. We will actively pursue the restoration of culverted watercourses to open channels

We acknowledge that the proposed attenuation basin is a less substantial structure than a typical development and the LPA and LLFA should consider whether the proposed basin and surrounding development would allow them sufficient access and working area around the culverted Nun Brook should they be in a position to daylight the culvert in the future, or undertake maintenance works. We understand that the culvert is around

8m below ground due to the overlying made ground from historic landfill. A substantial access area for potential future excavations may therefore be required, in order to do works to the culvert. As this is an Ordinary Watercourse rather than a main river, it is the responsibility of the LLFA rather than the EA and we will not therefore object on this point.

- Clarification that the proposed headwall from the attenuation pond links appropriately into the culvert.

It is unclear from the plans if the headwall of the attenuation pond is proposed to link to the culvert appropriately. The LLFA should be satisfied that the proposed site drainage and attenuation pond outfalls meet requirements and regulations.

- Clarification that the attenuation pond is sited outside Flood Zone 3

It would also be advised for the LLFA to confirm the distance of the attenuation pond from the entrance of the culvert, as an assurance that the attenuation pond is located outside the Flood Zone 3 outline on the Flood Map for Planning.

Environment Agency Position: Groundwater and contaminated land

Thank you for consulting us on the planning application. We have been provided with a copy of the SoilTechnics Ground Investigation report, reference STQ4642M-G01, Revision 03 April 2023.

We maintain our previous objection as the report provided is a Ground Investigation Report (similar to a Phase 2 Site Investigation and Generic Quantitative Risk Assessment) and does not contain the previously requested information in line with the requirements of the Land Contamination Risk Management (LCRM) guidance.

[Land contamination risk management \(LCRM\) - GOV.UK \(www.gov.uk\)](https://www.gov.uk/guidance/land-contamination-risk-management-lcrm)

We will not accept reports that are written without reference to and in the required sequence prescribed in the LCRM Guidance.

The LCRM guidance requires the completion of a Preliminary Risk Assessment (also known as a Phase 1 Desktop Study) **before** undertaking a Phase 2 Site Investigation, so that gap analysis is undertaken to formulate an initial conceptual site model and risk assessment is provided.

The provided report has not followed this LCRM approach and has undertaken a conceptual site model after the site investigation is undertaken, therefore the risks and conceptual site model were not assessed and factored into the design of the site investigation.

We are unable to review the provided information until a proper Preliminary Risk Assessment (PRA) report is provided that complies with the requirements of the LCRM guidance is provided in the first instance, so the assessed risks to Controlled Waters are clearly understood. Once this is provided for us to review, we can then review the PRA report alongside the provided Ground Investigation report and provide comments protective of controlled waters.

A copy of our previous comments are below, and remain applicable to the site until the PRA report has been provided.

We look forward to receiving the previously requested information in due course. Please note we have not reviewed the application in detail or any changes from the previous submission until the outstanding issues identified are addressed.

In order to overcome our objection, the applicant needs to write and provide a preliminary risk assessment report that follows the steps outlined in the LCRM guidance and in the sequence outlined.

Please note that the applicant also needs to address the points raised in the section overcoming our objection in our previous response which has been provided below.

We object to this development, as its planning application does not demonstrate that the risks of pollution to controlled waters are acceptable, or can be appropriately managed. We therefore recommend that planning permission is refused.

Reason(s)

The previous use of the development site with infilled made ground around the Nun Brook culvert and adjacent site used as a historic landfill/ refuse tip (potentially extending close or onto the subject site). Overall these activities present a high risk of contamination that could be mobilised during construction to pollute controlled waters. Controlled waters are particularly sensitive in this location because the site is located:

- Upon Principal Aquifers and Secondary A aquifers;
- The site is situated in a very sensitive area with respect to Controlled Waters and the superficial geology is not shown on the available mapping with the exception of a discreet area of alluvium in the vicinity of the proposed attenuation basin;
- The solid geology underlying the site comprises Secondary A aquifer approximating to the western half of the site and Principal Aquifer approximating in the eastern half of the site.
- A culverted brook (Nun Brook) runs from north to south through the site in the proposed location of the attenuation basin;
- The proposal for an attenuation basin built on top of, or interfering with the Nun Brook is not appropriate and we are concerned about this proposal and the impact it may have on flooding and the local groundwater levels, given flooding is already a problem in the area;
- Due to potential pathways for historic contamination or contamination to migrate around or off-site, infiltration SUDS or soakaways should not be used for surface water drainage infrastructure;
- Due to presence of potential contamination and the high risk setting no piling will be allowed without a site-specific piling risk assessment being undertaken. The EA's preferred method for piling is CFA to reduce the risk of creating preferential pathways; and
- The potential presence of made ground/ infill around the Nun Brook culvert needs to be investigated.

As the planning application is not supported by an appropriate risk assessment, it does not meet the requirements set out in paragraphs 170 and 178 of the National Planning Policy Framework.

Overcoming our objection

The applicant should submit the following:

- A preliminary risk assessment (phase 1 geo-environmental risk assessment) which includes a desk study, conceptual model and initial risk assessment. This information must demonstrate to the local planning authority that the risk to controlled waters has been fully understood and can be addressed through appropriate measures.
- The phase 1 report needs to fully assess the risks from off-site historical landfill (Hogshaw Refuse Tip) which has been identified to the west approximately 34m from the site straddling part of the Local Wildlife Area. From available aerial photos it appears that the ground has been disturbed more extensively than the indicative boundary of the historic landfill and therefore a historic landfill may be closer than anticipated to the development site. Hogshaw Refuse Tip (EAHLD32424) and is known to contain industrial waste and commercial waste. The historic landfill is a pre- Control of Pollution Act, 1974 and therefore it is likely that a wide range of waste may have been disposed at the landfill site.
- Take into account the following information and risks -our records show the following information in relation to the historic landfill. These historic landfill records are old and are not guaranteed to be accurate in terms of landfill boundary or materials input, therefore the applicant will need to undertake their own site investigations and risk investigations to confirm the current position.
- Give due consideration to the presence of infilled material and made ground in the vicinity of the culvert for Nun Brook which runs through the site area proposed for the attenuation pond.
- Give due consideration to the undertaken ground investigation, we are aware of waste material in the site ground including slag, timber and plastic encountered so far.
- Give due consideration to that the provided ground investigation report does not cover the full red line boundary for the site and the proposed area of the attenuation basin has not been investigated at all, or enough, therefore further investigation will need to be undertaken. Insufficient land contamination risk assessment and site investigation has been undertaken to adequately characterise the site.
- We think the proposed development of the attenuation basin constructed over and through the culverted Nun Brook is problematic and ill-conceived and the justification for this should be provided or re-evaluated.

We recommend that developers should:

1. Follow the risk management framework provided in our Land Contamination Risk Management guidance (which supersedes CLR11 Model Procedures for the Management of Land Contamination), when dealing with land affected by contamination.

<https://www.gov.uk/guidance/land-contamination-how-to-manage-the-risks>

1. Refer to our Guiding principles for land contamination for the type of information that we require in order to assess risks to controlled waters from the site. The local authority can advise on risk to other receptors, such as human health.

<https://www.gov.uk/government/publications/managing-and-reducing-land-contamination>

1. Consider using the National Quality Mark Scheme for Land Contamination Management which involves the use of competent persons to ensure that land

contamination risks are appropriately managed.

<https://www.claire.co.uk/projects-and-initiatives/nqms>

1. Refer to the contaminated land pages on GOV.UK for more information.

<https://www.gov.uk/contaminated-land>

<https://www.gov.uk/government/collections/land-contamination-technical-guidance>

1. The applicant should also note that due to the off-site and possible on-site historic landfill site use and recent waste identified in the ground investigation and potential for made ground around the Nun Brook Culvert, it is highly likely that a Phase 2 Site Investigation and Generic Quantitative Risk Assessment (GQRA) report will also be required to be provided to characterise the risk to controlled waters arising from the site. This will need to be in line with good practice and include soil, groundwater and surface water sampling for the contaminants of concern identified.

Yours sincerely

Ms Huda Al Tahhan
Planning Advisor