

DARLINGTON BOROUGH COUNCIL

PLANNING APPLICATIONS COMMITTEE

COMMITTEE DATE: 23 September 2009

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APPLICATION REF. NO:	09/00439/FUL
STATUTORY DECISION DATE:	30 September 2009
WARD/PARISH:	HARROWGATE HILL
LOCATION:	396/398 North Road, Darlington
DESCRIPTION:	Erection of 13 No terraced dwelling houses with associated car parking and access arrangements (as amended by plans received 9 September 2009)
APPLICANT:	A Gregory Building Contractors

APPLICATION AND SITE DESCRIPTION

This is a detailed planning application for the erection of thirteen two bedroomed terraced dwellings on the site of a former petrol filling station on North Road. The dwellings would be two storeys in height with private gardens to the rear and small forecourts to the front. Vehicular access to the site would be to the southern end of the site directly off North Road. There would be a total of thirteen parking spaces within the site, with five of those spaces located within the rear gardens of the dwellings. The remaining eight spaces form a parking area in the south east corner of the site. A pedestrian access from Bensham Road would be provided between the existing garden fences of the dwellings on Bensham Road and the rear garden fences of the proposed dwellings.

The application site is bounded by residential properties to the north, east and west. St Marks Vicarage and Church Hall form the southern boundary. The wider surrounding area is predominately residential with a small number of convenience shops further north of the application site. The application site has been vacant for a number of years and the buildings associated with its former use as a petrol filling station have recently been removed. The demolition works, which have recently been carried out, do not require planning permission.

The applicant carried out a pre application consultation exercise with local residents in accordance with the Council's Statement of Community Involvement document. The responses from the local residents have been submitted as part of this submission and they are primarily positive. The main areas of concern related to car parking provision, highway safety, and the number of dwellings on the site and the potential impact of the development on the dwellings on Bensham Road.

PLANNING HISTORY

The application site has a long planning history relating to its previous use as a petrol filling station, which is not considered to be relevant. There have also been three planning applications refused in recent years for the erection of a convenience store on the site. The most recent entry was:

07/00963/FUL In December 2007, planning permission was REFUSED for the erection of a convenience store and associated car parking and servicing

PLANNING POLICY BACKGROUND

National Planning Guidance

Planning Policy Statement 1: Delivering Sustainable Development
Planning Policy Statement Planning Policy Statement 1 Supplement: Planning and Climate Change;
Planning Policy Statement 3: Housing;
Planning Policy Guidance 13: Transport; and
Planning Policy Guidance 17: Open Space, Sport and Recreation

North East of England Plan Regional Spatial Strategy to 2021 (July 2008)

Policy 2	Sustainable Development
Policy 4	The Sequential Approach to Development
Policy 6	Locational Strategy
Policy 7	Connectivity and Accessibility
Policy 8	Protecting and enhancing the Environment
Policy 24	Delivering Sustainable Communities
Policy 29	Delivering and Managing Housing Supply
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Policy 38	Sustainable Construction
Policy 39	Renewable Energy Regeneration
Policy 54	Parking and Travel Plans

Borough of Darlington Local Plan

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H9	Meeting Affordable Housing Needs
H11	Design and Layout of New Housing Development
H14	Accessible Housing

R1	Designing For All
R6	Open Space Provision in New Residential Development
R7	The Design of Open Space Provision
R13	Recreation Routes and New Development
T12	New Development – Road Capacity
T13	New Development – Standards
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T31	New Development and Public Transport
T39	Conditions for Pedestrians

The following policies within the Darlington Open Space Strategy 2007 – 2017 are relevant:

Policy 6	Overall Standards of Provision
Policy 19	Open Space Provision associated with New Development
Policy 20	Securing appropriate Open Spaces and Their Maintenance

The following Supplementary Guidance Note and Planning Document are also relevant

Commuted Sums from New Housing Developments for Existing Equipped Play Areas
Design of New Development

RESULTS OF CONSULTATION AND PUBLICITY

Three letters of objection have been received raising the following concerns:

- *We would like to say that we are in favour of the plans outlined and feel it could make a positive contribution to our neighbourhood. However, how will the new access road, which is significantly different from the previous access to the filling station relate to our drive (No 394 North Road). The access road appears to cut across the end of our drive which has a drop down kerb;*
- *Access onto North Road is already quire an issue. We a re concerned about the speed at which vehicles may exit the new development. It may be that some sort of “sleeping policeman” or other measures might be appropriate. It will also be imperative that the new residents are aware of the possibility of a car coming out of our drive at the same time. There will be a blind spot;*
- *We would like to know more about the low level lighting indicated on the plans in the car park area. Will these be on throughout the night? Will they contribute significantly to levels of light pollution at the back of the houses on North Road and Bensham Road?*
- *I believe from the proposed plans that I will be able to look directly, and at quite close proximity, into the bedrooms and downstairs rooms of a number of the properties, and they will be able to see quite clearly into my rear bedrooms (No 101 Bensham Road)*
- *I believe the proposed houses will allow less light into my property due to their proximity to the rear of my house. In the rear of my house (No 101 Bensham Road) I have a dining room and kitchen downstairs and two bedroom upstairs. I am aware that the original plans have since been amended to drop the height of the roofline in the application, but they would still be at a height that would reduce light entering at least my downstairs rooms, if not my bedrooms as well*
- *I also believe that there are too any many houses for this site, making an overbearing development, especially to the proximity to my house;*

- *Has enough car parking spaces been allowed for households owning more than one car? I think there is a strong possibility of the potential problem of residents parking across my driveway and in front of my property*
- *It would appear that the entrance to the site will be from North Road, but the number of parking spaces on site will be very restricted. We note that the application envisages additional parking on North Road and on Bensham Road. We believe that this will be a definite traffic hazard*
- *At the moment, leaving Bensham Road to join North Road, one has to take particular care of traffic going from the town centre direction, and if cars are allowed to park near to the junction of either road, then the problem will be increased significantly. We would therefore urgently request that double yellow lines are provide on both sides of this junction so as to allow car users from Bensham Road a clear view of the traffic flow on North Road.*

A petition containing 117 signatories in support of the proposed development has been submitted with the application.

Northern Gas Networks

Northern Gas Networks have raised no objections to the development

Durham Constabulary Architectural Liaison Officer

The ALO has provided some specific security related comments, which will be mentioned in more detail further in the report. He has also provided some general security comments relating to alarms, drainpipes, locks etc

Northumbrian Water

Northumbrian Water has requested the imposition of a planning condition relating to the disposal of surface water from the development site.

CE Electric UK

CE Electric UK have raised no objections to the development

Environment Agency

The Environment Agency have raised no objections to the development and requested the imposition of planning conditions relating to land contamination,

PLANNING ISSUES

The main issues to be considered here are whether or not the proposed development is considered acceptable in the following terms:

- Planning Policy
- Visual Appearance and Character of the Area
- Residential Amenity
- Highway Matters
- Contaminated Land
- Section 106 Agreement

Planning Policy

The application site falls within the development limits for the urban area as designated by Policy E2 (Development Limits) and H3 (Locations for New Housing Development) of the Local Plan and therefore the use of the site for residential purposes is, in principle, considered acceptable. The remainder of the report will consider the proposed development in more general development control terms.

Visual Appearance

The application site is in a prominent location on North Road and it was previously used as a petrol filling station. The site contained single storey buildings, petrol pumps and a canopy. However it has been vacant for approximately five years and during this time it has become an eyesore and an anti social behaviour problem for local residents. The buildings have recently been demolished.

The proposal involves the erection of thirteen two storey terraced dwellings fronting onto North Road. Each dwelling would have an enclosed garden to the rear and a small forecourt to the front enclosed by a 0.45m high dwarf wall with railings. The rear gardens would be enclosed by 1.8m high fencing and each one would contain a small shed. The dwellings would be constructed from red facing bricks and dark grey eternit roof tiles. Each dwelling would have a front bay window at ground floor level.

The site, at the north end is approximately 2m higher than at the southern end and therefore the terrace has a staggered roof line to reflect this change in the ground level. Also, as a result of the change in land levels within the site, a number of the dwellings cannot have a level access from the footway to the front. Therefore, a level pedestrian access has been created, off Bensham Road, to the rear of the proposed dwellings. This would provide a level access for wheelchair users and create a safe and separate pedestrian access from the car parking area in the south east corner of the site. The car parking area would contain bollards with low level lighting.

The Durham Constabulary Architectural Liaison Officer (ALO) advised that if a pedestrian link must be provided to the rear of the dwellings, the accesses must be gated. The gates must be placed at the entrance to the footpath, as near to the building line as possible, so that attempts to climb them will be in full view of the street. Wherever possible the street lighting scheme should be designed to ensure that the gates are well illuminated. The gates must have a key operated lock, operable from both sides. The gates must not be easy to climb or remove from their hinges. The ALO also recommends that a rumble strip, change of road surface should be incorporated at the road entrance of the site in order to create a symbolic barrier to give the impression that the area beyond is private to the community. The applicant has agreed to incorporate these suggestions as well as the more general advice on locks and windows etc.

The Council has recently adopted the Design of New Development Supplementary Planning Document (SPD) and whilst the design of the development was negotiated prior to adoption of the SPD it does in all respects comply with the guidance.

The inclusion of some defensible space to the front of the dwellings, with a railing boundary is an appropriate feature. In order to comply with the Design SPD even further, the applicant has agreed to enhance biodiversity and ecology on the application site by erecting bird boxes on the site. This can be secured by the imposition of a suitable planning condition.

The North East of England Plan Regional Spatial Strategy and the SPD on Design for New Development both seek to secure that at least 10% of their energy supply from decentralized and renewable or low carbon sources, unless having regard to the type of development involved and its design, this is not feasible or viable. Whilst the application does not provide any details of how this may be achieved, the applicant has agreed to look at incorporating sustainable features within the development and it is considered appropriate to impose a planning condition.

Residential Amenity

The existing rear garden fences (approximately 1.8m high) of the dwellings on Bensham Road form the eastern boundary of the application site. These dwellings are situated on ground approximately 1.0m higher than the application site. The rear elevation of the proposed terrace contains kitchen/dining room windows at ground floor level and bedroom windows at first floor level. The maximum height of the dwellings is approximately 7.7m when measured from ground level. As previously mentioned the terrace will step down from north to south (from Bensham Road) creating a staggered roof line. As stated by one of the objectors, the overall height of the development has been decreased in order to minimise its impact on these dwellings.

The dwellings on Bensham Road would not directly face onto the proposed development, as they are positioned at a slight angle to the site. It is considered that the first floor windows of these dwellings would be potentially affected the most by the development in terms of overlooking and outlook due to the difference in the ground levels. The existing and proposed boundary fencing would partially screen the development from the ground floor windows. The separation distance between the proposed terrace of dwellings and the windows in the rear elevation of No 101 Bensham Road is approximately 13.5m at its closest point, which is contrary to the requirements of the SPD on New Design. However, as this dwelling is at an angle of almost 45 degrees to the development there would be no direct views onto the development at this point. Due to the angled relationship of this dwelling to the development, this separation distance would increase to 20.5m when more direct views are taken. It is considered that the relationship with No 101 Bensham Road, and the remaining dwellings in that street is acceptable and would not lead to significant overlooking issues.

The proposed development will have an impact on the amount of light entering the rear garden and windows of No 101 Bensham Road. However, due to the difference in ground levels and the orientation of the dwelling to the proposed development, it is considered that this impact is acceptable.

No 394m North Road (St Marks Church Vicarage), to the south of the site contains a first floor principal window in its northern elevation. Again, the development has been designed so the proposed dwellings are offset from this window and not directly facing it. This relationship is considered acceptable. The relationship with the dwellings on the opposite side of North Road does not raise any overlooking issues.

In terms of outlook, the dwellings on Bensham Road would have had views of the buildings associated with the previous use of the site as a petrol filling station and those structures, albeit mainly one storey high were positioned closer to the east boundary of the site than the proposed development. The separation distances between the existing and proposed dwellings are considered to be acceptable. The overall height of the development has already been decreased and the staggered roof line due to the quite considerable change in ground levels of the site would help to prevent the development being overbearing when viewed from the neighbouring properties.

The applicant has stated that he intends to have low level lighting in the car parking area and it is envisaged that this would not raise amenity issues. However, it is considered appropriate to impose a planning condition to secure precise details of the lighting.

It would be difficult to develop this site for any form of development other than two storey dwellings. The SPD on New Design for Development would not permit the erection of single storey dwellings in this location and that form of development would be completely out of character with the surrounding area. Any form of development higher than two storeys would have adverse impacts upon both residential and visual amenity. The applicant has given consideration to the constraints of the site (the change in land levels within the site and also between the site and Bensham Road and the relationship with the neighbouring dwellings) and the proposed development would have as minimal an impact on residential amenity as possible. The development will have some, but limited impacts upon the dwellings to the rear (eg the distance between the existing and proposed dwellings not in full compliance with the Council's adopted separation distance requirements and its impact on light entering the rear gardens and windows of the dwellings on Bensham Road) but it has been designed to minimise those impacts.

In order to safeguard the residential amenity of the area, the Council's Environmental Officer has recommended the imposition of planning conditions relating to the submission of a Dust Action Plan and to restrict the hours of construction to 0800 – 1730 Mondays to Fridays and 0800 to 1400 on Saturday with no activities taking place on Sundays or Bank Holidays.

Highway Matters

A new vehicular access would be formed at the southern end of the site, leading to a car parking area to the rear of the proposed dwellings containing eight spaces. A further five spaces would be provided within the curtilage of those dwellings closest to the access and parking area.

The Council's Highways Engineer has commented, "13no spaces are provided within the curtilage of the site. Also, there is space for on-street parking on the site frontages on North Road and Bensham Road for at least 10no vehicles. Given the size of dwellings (2 bed) and the high quality public transport accessibility of the site I would consider that a parking provision at the rate of 1.5 spaces per dwelling would be acceptable. This can easily be accommodated with the proposed layout.

As a new vehicular access is to be provided at the south end of the site. dropped crossings/tactile paving will be required at this new access.

Works will be required on the footways on the frontage to the site on Bensham Road and North Road to generally improve the condition of the footway and to reinstate redundant accesses. There are already a number of bollards on the frontage on North Road and additional bollards will be required to match these at locations where footway has been reinstated. Dropped crossings/tactile paving must also be provided at the Bensham Road crossing.

Provided the above conditions, in relation to footway improvements and dropped crossing/tactile paving provision, are included with an approval I would raise no highway objection to the proposal."

The Transport Policy Section has requested the imposition of a planning condition to secure cycle parking within the development.

Contaminated Land

The site was formerly used as a petrol filling station. It is understood the underground storage tanks are still in the ground. The application includes a Geo-Environmental Intrusive Investigation carried out in 2005. The report assumes a commercial end use of the site (this report was submitted as part of the previous applications for retailing on the site), and therefore the risk assessment is based on that end use, rather than a residential with gardens end use. Nevertheless, the report has identified some contamination on the site, including elevated leachable heavy metals, volatile organic compounds and total petroleum hydrocarbon. Gas monitoring also showed some potential methane gas on the site, although needs to be investigated further. A second report has also been submitted with the application dated 6 March 2006. The main purpose of that report was to assess the significance of any potential off-site migration of contaminated groundwater from the site.

The 2005 report identifies some contamination on the site, and makes recommendations for further investigations to be undertaken in order to allow risks to be further defined and remediation proposals confirmed. Both the Council's Environmental Health Officer and the Environment Agency have requested the imposition of planning conditions relating to contaminated land.

Section 106 Agreement

The "Darlington Open Space Strategy 2007 – 2017" states that new residential development of five or more dwellings will be required to make provision for accessible open space to meet the future needs of the residents of the development. The quantity and type of open space provision will be determined on a site-by-site basis, having regard to any identified shortfalls in provision in the area, taking into account the projected population arising from the proposed development. Wherever, possible, this provision should be made on site. However, where no such shortfall exists, or where the area available would be unsuitable to accommodate the open space, the Council will seek a capital sum, equivalent to the cost of providing open space in the site, for the improvement in the quality of existing open spaces in the area and for the enhancement of locally important open spaces and strategic parks.

The Supplementary Planning Guidance document – "Commuted Sums from New Housing Developments for the Enhancement of Existing Equipped Play Areas" also applies to this development and it seeks to secure funding to upgrade play area equipment located within the vicinity of the application site.

The applicant has agreed to the appropriate financial contributions in accordance with the above policy documents and these would be secured by entering into a Section 106 Agreement.

SECTION 17 OF THE CRIME AND DISORDER ACT 1998

The Durham Constabulary Architectural Liaison Officer offered advice on the proposed development, which has been incorporated into the proposal. The contents of this report have been considered in the context of the requirements placed on the Council by Section 17 of the Crime and Disorder Act 1998, namely the duty on the Council to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area. It is not considered that the contents of this report have any such effect.

CONCLUSION

The application site is a prominent location on one of the main travel routes in the urban area. The site has been vacant for approximately five years and during this time it has had an adverse impact on the visual appearance of the area and attracted anti social behaviour. The proposed development for thirteen terraced dwellings would improve the visual appearance of the site and the surrounding area. The development does not raise any highway safety issues and the development has been amended to incorporate advice given by the Durham Constabulary Architectural Liaison Officer. The development will have some but limited impact upon the dwellings to the rear but it has been designed to minimise those impacts. The following national, regional and local planning policies have been taken into consideration:

National Planning Guidance

Planning Policy Statement 1: Delivering Sustainable Development
 Planning Policy Statement Planning Policy Statement 1 Supplement: Planning and Climate Change;
 Planning Policy Statement 3: Housing;
 Planning Policy Guidance 13: Transport; and
 Planning Policy Guidance 17: Open Space, Sport and Recreation

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Supplementary Guidance Note and Planning Document

Commuted Sums from New Housing Developments for Existing Equipped Play Areas
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RECOMMENDATION

THE ASSISTANT CHIEF EXECUTIVE (REGENERATION) BE AUTHORISED TO NEGOTIATE ACT 1990 TO SECURE THE FOLLOWING:

- A financial contribution towards the upgrading and maintenance of an off site area of open space in accordance with the Darlington Open Space Strategy 2007 – 2017
- A financial contribution towards the upgrading and maintenance of an off site equipped play area in accordance with Supplementary Planning Guidance Note - Commuted Sums from New Housing Developments for Existing Equipped Play Areas

AND THAT PLANNING PERMISSION THEN BE GRANTED SUBJECT TO THE FOLLOWING CONDITIONS:

- A3 – Implementation Limit (Three Years)
- Prior to the commencement of the development a detailed scheme for the disposal of surface water from the development shall be submitted to and approved by the Local Planning Authority in consultation with Northumbrian Water. The development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: To ensure the discharge of surface water from the site does not increase the risk of flooding from sewers
- J2 – Contamination
- Prior to occupation of any part of the permitted development, a verification report demonstrating completion of the 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. It shall also include any plan (a long-term monitoring

and maintenance plan) for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action, as identified in the verification plan, and for the reporting of this to the local planning authority.

REASON: To confirm that any risks to controlled waters have been adequately addressed.

- 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 the developer has submitted, and obtained written approval from the Local Planning Authority for, an amendment to the remediation strategy detailing how this unsuspected contamination shall be dealt with.
REASON: Unsuspected contamination may exist at the site, which may pose a risk to controlled waters.
- No development shall take place until an investigative report assessing the viability of on site renewable energy sources for this particular development including its ability to reduce the CO₂ emissions through their use by 10% has been submitted to and approved in writing by the Local Planning Authority. The report shall also have regard to the type of development involved and its design. Should it be shown that the use of such initiatives are viable, before the development is occupied the approved renewable energy equipment shall have been installed and the Local Planning Authority shall be satisfied that their day to day operation will provide energy and efficiency for the development for as long as the development remains in existence.

REASON - To limit the energy requirements of the development in accordance with the North East of England Plan Regional Spatial Strategy to 2021 and Design of New Development Supplementary Guidance Note

- Notwithstanding the details shown on the approved plans, precise details of secure cycle parking areas shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: To ensure that secure cycle parking is provided within the development
- Notwithstanding the details shown on the approved plans, precise details of works to the existing footways, including the reinstatement of redundant accesses, the formation of dropped crossings and tactile paving, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In the interests of highway and pedestrian safety
- Prior to the development hereby approved being commenced, a detailed assessment of the noise levels due to road traffic shall be carried out and a scheme of noise attenuation measures shall be submitted to, and agreed in writing by, the Local Planning Authority to achieve the following noise levels within dwellings, which shall not be exceeded;

Less than 35 dB(A) LAeq within living rooms

Less than 30 dB(A) LAeq and 45 dB(A) LAMax,F within bedrooms

Less than 55 dB(A) LAeq in garden areas.

Calculations shall be submitted to, and agreed in writing with, the Local Planning Authority to show that the above noise limits will be complied with.

REASON: In order to protect the amenities of the occupiers of the development.

- Prior to the commencement of the development, a Dust Action Plan shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In the interests of residential amenity
- No construction activities shall occur outside of the hours 0800 – 1730 Mondays to Fridays and 0800 to 1400 on Saturday. No activities shall take place on Sundays or Bank Holidays
REASON: In the interests of residential amenity
- Notwithstanding the details shown on the approved plans, precise details of any external lighting, including the location and type of lighting and a Lighting Impact Assessment, shall be submitted to and approved by the Local Planning Authority prior to the commencement of the development. The development shall not be carried out otherwise than in complete accordance with the approved details
REASON: In the interests of residential amenity
- Notwithstanding the details shown on the approved plans, precise details of any proposed bird boxes shall be submitted to and approved by the Local Planning Authority, prior to the commencement of the development. The details shall include the number, type, size and location of the boxes and the development shall not be carried out otherwise than in complete accordance with the approved details.
REASON: In order to enhance biodiversity within the application site and the surrounding area
- Prior to the commencement of the development precise details of the security measures for the proposed footpath to the rear of the approved development shall be submitted to and approved by the local planning authority in consultation with the Durham Constabulary Architectural Liaison Officer. The development shall be carried out in complete accordance with the approved details
REASON: In the interests of security and preventing crime.
- B5

SUGGESTED SUMMARY OF REASONS FOR GRANTING PLANNING PERMISSION

The application site is a prominent location on one of the main travel routes in the urban area. The site has been vacant for approximately five years and during this time it has had an adverse impact on the visual appearance of the area and attracted anti social behaviour. The proposed development for thirteen terraced dwellings would improve the visual appearance of the site and the surrounding area. The development does not raise any highway safety issues and the development has been amended to incorporate advice given by the Durham Constabulary Architectural Liaison Officer. The development will have some but limited impact upon the dwellings to the rear but it has been designed to minimise those impacts. The following national, regional and local planning policies have been taken into consideration:

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INFORMATIVE TO BE INCLUDED SHOULD PLANNING PERMISSION BE GRANTED

The applicant is advised that works are required within the public highway and contact must be made with the Assistant Director: Highways and Engineering (contact Mr.A.Ward 01325 388743) to arrange for the works to be carried out or to obtain authority under Sec.184 of the Highways Act 1980 to execute the works.

The applicant is advised that contact must be made with the Assistant Director: Highways and Engineering (contact Ms.P.Goodwill 01325 388760) to discuss naming and numbering of the development.

The Environment Agency recommends that developers should:

- 1) Follow the risk management framework provided in CLR11, Model Procedures for the Management of Land Contamination, when dealing with land affected by contamination.
- 2) Refer to the Environment Agency Guidance on Requirements for Land Contamination Reports 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, e.g. human health.
- 3) Refer to our website at www.environment-agency.gov.uk for more information.

The recovery, treatment and disposal of contaminated soils and groundwater is regulated by waste legislation and requires an Environmental Permit.

Treatment of contaminated soil by mobile plant requires a mobile treatment licence. Soil may be re-used on-site as part of a soil recovery operation by registering an exemption with the Environment Agency or by obtaining an Environmental Permit.

Developers should ensure that all contaminated materials are adequately characterised both chemically and physically, and that the permitting status of any proposed on site operations are clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.

It is recommended that developers should refer to the Environment Agency's:

- Position statement on the Definition of Waste: Development Industry Code of Practice and;
- website at www.environment-agency.gov.uk for further guidance.

Contaminated soil that is excavated, recovered or disposed of, is controlled waste. Therefore, its handling, transport, treatment and disposal is subject to waste management legislation, which includes:

- i) Duty of Care Regulations 1991
- ii) Hazardous Waste (England and Wales) Regulations 2005
- iii) Environmental Permitting Regulations 2008

Developers should ensure that all contaminated materials are adequately characterised both

chemically and physically, and that the permitting status of any proposed off site operations is clear. If in doubt, the Environment Agency should be contacted for advice at an early stage to avoid any delays.